

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.2477 of 2019**

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Suresh Paswan, Male, aged about 52 years, son of Gopal Paswan, resident of Village- Devisthan Chiraili, Village Panchayat- Chiraili, Police Station- Khizarsarai, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub- Divisional Officer, Nimchak Bathani, District- Gaya.
4. The Block Supply Officer, Khizarsarai, District- Gaya.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Binay Kumar  
For the Respondent/s : Mr.Arvind Ujjwal (Sc4)

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

2      29-04-2019                      The petitioner in this case is aggrieved by and dissatisfied with the order as contained in Memo No.2111 dated 31.12.2018 as contained in Annexure '5' to the writ application by which the licence of the petitioner for the Public Distribution System Shop has been cancelled.

Learned counsel for the petitioner has submitted that on a reading of the impugned order it would appear that on 16.05.2018 and 17.05.2018 during the public meeting of the Hon'ble Minister, Food and Civil Supplies Department, Government of Bihar, an enquiry was conducted with respect to the shop of the petitioner. It appears that as many as 12 consumers had made a complaint in the public meeting which



led to the enquiry. After receipt of the enquiry report vide Memo No.4091 dated 24.08.2018, the petitioner was called upon to show cause vide Memo No.1985 dated 07.12.2018. The petitioner had submitted his reply dated 18.12.2018 in which he had not only denied the allegations but had also enclosed at least affidavit(s) of those very nine persons on whose statement the action for cancellation of licence was sought to be taken against the petitioner.

Learned counsel submits that the nine affidavit(s) submitted on behalf of the petitioner were not considered and those were refused to be accepted by making an observation that the circumstances under which the consumers might have sworn the affidavits cannot be understood and those seem to have been obtained by managing them. Learned counsel submits that the Sub-Divisional Officer, Nimchak Bathani, Gaya is not correct in rejecting the affidavits of the nine persons/consumers without conducting any verification of the same from those consumers.

It is the contention of the learned counsel for the petitioner that without conducting any verification and without applying his independent mind to the reply filed on behalf of the petitioner, the Sub-Divisional Officer, Nimchak Bathani, Gaya has cancelled the licence of the petitioner.



Learned counsel for the State is present and after going through the impugned order submits that instead of calling for a counter affidavit, the writ application may be disposed of directing the Sub-Divisional Officer, Nimchak Bathani, Gaya to consider the matter afresh and take an independent decision thereon.

After hearing learned counsel for the parties and on perusal of the records, this Court finds substance in the submission of learned counsel for the petitioner. It appears that on the basis of the complaints made by twelve consumers in the public meeting before the Hon'ble Minister the impugned action was initiated. The petitioner submitted his reply along with nine affidavit(s) of the consumers but those affidavits were not accepted by the Sub-Divisional Officer, Nimchak Bathani, Gaya saying that those affidavit(s) have been managed. In the opinion of this Court, once the petitioner was able to place on record the nine affidavit (s) of the consumers, the veracity of the complaint were required to be examined by conducting necessary verification by the Sub-Divisional Officer and only thereupon an independent view of the matter could have been taken. It has not been done in the present case. For these reasons the impugned order is liable to be held bad. Annexure '5' as



contained in Memo No.2111 dated 31.12.2018 is, thus, set-aside. The matter is remitted to the Sub-Divisional Officer, Nimchak Bathani, Gaya for a fresh consideration of the entire matter after conducting proper verification of the affidavit(s) from the consumers and upon taking an independent view of the matter. Let the whole exercise be completed within a period of 90 days from the date of receipt/production of a copy of this order.

It will be open for the petitioner to request the Sub-Divisional Officer, Nimchak Bathani, Gaya to restore his supplies.

The writ application is disposed of, accordingly.

**(Rajeev Ranjan Prasad, J)**

R.R.Ojha/-

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