

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5042 of 2019

=====

Surendra Manjhi Son of Banvari Manjhi Resident of village-Charoba, Village Panchayat-Dhansir, Police Station-Magadh Medical College, 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, Sadar Gaya.
4. The Block Supply Officer, Town Block, Dist.-Gaya.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Binay Kumar, Advocate
For the Respondent/s : Mr. Ac to SC 4

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 02-08-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

The petitioner in the present case is aggrieved by and dissatisfied with the order as contained in Memo No. 1740 dated 20th December, 2018 by which the Fair Price Shop License of the petitioner has been cancelled with immediate effect.

It appears that the petitioner was served with a show cause notice on 02.11.2018 giving three days time to file his explanation. The petitioner failed to file his explanation within the given three days time and it is his grievance that later on when he wanted to submit the explanation, it was not accepted. A statement to this effect has been made in paragraph '8' of the writ



application.

Since the petitioner did not submit his explanation, the licensing authority proceeded to pass the impugned order holding that the petitioner has violated the terms and conditions of the license.

Learned counsel for the petitioner submits that earlier in various cases this Court has held that three days time for submission of explanation cannot be said to be a reasonable time and in such circumstance the order cancelling the license of the petitioner has been set aside by this Court. It is submitted that in the present case since the petitioner has been deprived of substantial justice, one opportunity may be granted to the petitioner to place his case before the licensing authority.

Learned counsel for the State has opposed the writ application. It is submitted that despite opportunity granted to the petitioner he had failed to avail the same.

Having heard learned counsel for the parties and upon perusal of the records, this Court finds that on 02.11.2018 the petitioner was said to have been served with the show cause notice but the petitioner failed to submit his reply. The impugned order has been passed thereafter on 20th December, 2018. In the interest of justice and with a view to do substantial justice, this Court is willing to exercise its discretionary power to allow the petitioner



to avail one opportunity to place his case before the licensing, however, while doing so the orders which have been passed by this Court in some cases directing restoration of license shall not be allowed to the petitioner.

The impugned order is hereby set aside and the matter is remitted to the Sub-Divisional Officer, Sadar, Gaya (respondent no. 3) to allow the petitioner giving an opportunity to submit his explanation and thereafter, the respondent no. 3 shall proceed to pass a fresh reasoned order in accordance with law.

Learned counsel for the petitioner has submitted that the petitioner will submit his explanation within three weeks from today with all supporting documents and with certified copy of this order before respondent no. 3.

If such an explanation is submitted before the respondent no. 3 within the aforesaid period, the same will be considered on its own merit and a reasoned order thereon shall be passed by respondent no. 3 within a maximum period of 90 days from the date of receipt of the explanation.

The writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

avin/-

U			
---	--	--	--

