

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7627 of 2019

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M/s Mahavir Traders through its Proprietor Ranvijay Singh @ Dinesh Singh, aged about 68 years (Male), Son of Late Narmadeshwar Singh, Resident of Village- Raghunathpur, P.S.- Brahampur, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Agriculture, Govt. of Bihar, Patna.
3. The Collector, Buxar.
4. The District Agriculture Officer, Buxar.
5. The Sub Divisional Officer, Buxar.
6. The Block Agriculture Officer cum-Fertilizer Inspector, Brahampur, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Anju Mishra, Adv.
For the Respondent/s : Ms. Shalini P., Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 31-07-2019 Petitioner, in the present case, is seeking intervention of this Court under Article 226 of the Constitution of India for setting aside the order as contained in letter bearing no.198 dated 01.02.2019 issued under the signature of the District Agriculture Officer, Buxar as contained in Annexure-1 to the writ application by which the District Agriculture Officer has cancelled the licence of the petitioner to deal in chemical fertilizers, pesticides and organic fertilizers on the ground of contravention of the statutory provisions of the Fertilizer Control Order, 1985 read with Seeds (Control) Order, 1983.

Ms. Anju Mishra, learned counsel representing the



petitioner has raised a short point for setting aside of the impugned order as contained in Annexure-1 and then another order contained in memo no.242 dated 05.02.2019 (Annexure-2 to the writ application). It is her submission that the action of the cancellation of licence suffers from violation of the principles of natural justice inasmuch as no opportunity to show cause was given to the petitioner. It is submitted that only because one FIR has been lodged against the petitioner on the allegation that 91 bags of Urea were recovered from the house of the petitioner, that alone cannot be a ground to cancel the licence without giving an opportunity to the petitioner to explain the circumstances. Relying upon Section 31(2) of the Fertilizer Control Order, 1985 (hereinafter referred to as the 'Control Order of 1985'), learned counsel submits that the provision clearly indicates that the affected person whose licence is to be cancelled shall be furnished with the details and the nature of contravention alleged to have been committed by him. Prior to that under sub-section(1) of Section 31 of Control Order of 1985 the licence of the person concerned may be placed under suspension, but in the present case no such procedure has been followed.

In the counter affidavit filed on behalf of the



respondent no.4 the only ground indicated for cancellation of licence is recovery of 91 bags of urea which were allegedly kept hidden for black-marketing. In the counter affidavit a categorical statement has been made that since the petitioner was caught engaged in black-marketing of urea of IFFCO company on spot which he was not authorized as a dealer of IFFCO and while the same was found kept hidden in the premises, it was a case of violation of the provisions of Section 7 of the E.C. Act as also the Control Order of 1985 which lead to cancellation of the licence of the petitioner. It has been stated that no show cause notice was required to be served prior to the cancellation of the licence.

Having heard learned counsel for the petitioner and the State, this Court is of the considered opinion that the stand taken by the respondents that no show cause notice was required to be served prior to cancellation of the licence is not in accordance with law. The counter affidavit has not at all explained the pleadings of the petitioner based on the provisions of the sub-section(1) and sub-section(2) of Section 31 of the Control Order of 1985. It is well settled that the principles of natural justice is like a brooding omnipresence which prevails everywhere. The cancellation of licence (Annexure-1 and 2) without serving any



show cause notice and giving an opportunity to the petitioner to submit his show cause is per se illegal, arbitrary and bad in law.

The action of the District Agriculture Officer therefore cannot be held to be justified. Annexure-1 and 2 to the writ application are thus quashed. The matter is remitted to the District Agriculture Officer, Buxar (respondent no.4) to consider the whole matter afresh after giving an appropriate opportunity to show cause and by following the procedures established by law. The respondent no.4 shall proceed to pass an appropriate reasoned order after giving an opportunity to the petitioner to show cause and upon consideration thereof within a reasonable time.

The writ application stands allowed to the extent indicated hereinabove

(Rajeev Ranjan Prasad, J)

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