

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20955 of 2018

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Dinesh Prasad Mandal S/o Late Ram Nagina Mandal, Resident of Village-
Babupur, P.S.- Pirpainti, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar, Patna
2. The Collector Cum District Magistrate, Bhagalpur.
3. The District Supply Officer, Bhagalpur.
4. The Sub-Divisional Officer, Kahalgaon, District- Bhagalpur.
5. The Block Supply Officer, Pirpainti, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Tarun Prasad Mandal, Advocate
For the Respondent/s : Mr.Arvind Ujjwal -Sc4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 27-07-2019 Heard learned counsel for the petitioner and the

learned counsel appearing on behalf of the State.

In the nature of the order proposed to be passed by
this Court, learned counsel for the State submits that no counter
affidavit is required and the matter may be disposed of on the
basis of the materials available on the record.

In this case earlier the license of the petitioner was
placed under suspension against which he had moved this Court
in C.W.J.C. No. 15364 of 2018. The said writ application was
heard and disposed of by a learned co-ordinate Bench of this
Court vide order dated 13.09.2018 by setting aside the



impugned order dated 17.07.2017, the writ application was thus allowed.

It is the case of the petitioner that when the petitioner went to the office of Sub-Divisional Officer, Kahalgaon, District Bhagalpur with a copy of the order passed by this Court in the said writ application, he was asked to receive a copy of the impugned order as contained in Annexure '5' by which the license of the petitioner has been cancelled. The order as contained in Annexure '5' is dated 12.03.2018 but it has been handed over to the petitioner on 08.10.2018. During this period it was never communicated to the petitioner.

It is submitted that even in course of hearing of the writ application, learned counsel for the State had not informed the Court that any order of cancellation has been passed. It is his further submission that impugned order dated 12.03.2018 is a ante-dated order by the Sub-Divisional Officer, Kahalgaon, District Bhagalpur.

Learned counsel for the State is present. A counter affidavit has been filed in this case but in the counter affidavit noting has been stated as to why the impugned order dated 12.03.2018 was not brought to the notice of this Court when the earlier writ application was being heard.



Learned counsel for the State submits that in the given facts and circumstances, since the order of suspension of the license of the petitioner has already been quashed by this Court and no review thereof has been sought for on behalf of State respondents, it would only be just and proper for the Sub Divisional Officer, Kahalgaon, District Bhagalpur to consider the matter afresh.

Having heard learned counsel for the petitioner and learned counsel for the State, in the given facts and circumstances of the case, this Court finds it just and proper to quash the order as contained in Memo No. 148 dated 12.04.2018 at Annexure '5' to the writ application on the ground that when the order of suspension was sub-judiced before this Court in the earlier writ application and the State respondents were proceeding with the matter, those facts should have been brought to the notice of this Court which has not been done. The license of the petitioner has been cancelled only on the ground that no show cause has been submitted by the petitioner.

The impugned order as contained in Annexure '5' is hereby set aside. The matter is remitted to Sub-Divisional Officer, Kahalgaon, District Bhagalpur, respondent no. 4 for a



fresh consideration in accordance with law.

Let the whole exercise be completed within a period of 90 days from the date of receipt/production of copy of this order.

In the meantime, the license and supply of the petitioner shall stand restored.

(Rajeev Ranjan Prasad, J)

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