

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22987 of 2018

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Gauri Shankar Kumar s/o Arun Prasad Sah, resident of Har Har Mahadev
Chauk, Harrakh Road, P.S.- Kotwali Chauk, District - Begusarai.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Agriculture, Government of Bihar, Patna.
2. The Principal Secretary, Department of Agriculture, Government of Bihar, Patna.
3. The District Agriculture Officer, Begusarai.
4. The Director, Bihar State Seed and Organic Certification Agency, Mithapur, Patna.
5. The In-Charge Deputy Director, Bihar State Seed and Organic Certification Agency, Bhagalpur.
6. The Seed Certification Inspector, Bihar State Seed and Organic Certification Agency, Darbhanga.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Ankit Katriar, Advocate Mr.Ravi Kumar, Advocate
For the Respondent/s	:	Mr.Raghwanand, GA-11 Mr.Sanjay Kumar Tiwari, AC to GA-11

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 05-04-2019 Heard learned counsel for the petitioner as well as

learned counsel representing the State.

This writ application has been preferred for quashing
the impugned letters bearing No. 1305 and 1310 dated
01.11.2018 as contained in Annexure 'P/4' and 'P/4A'
respectively to the writ application.

By the impugned orders the registration certificate of
the petitioner and renewal certificate for sealing the certified



seeds have been cancelled by the respondent authorities.

Learned counsel for the petitioner submits that the petitioner was running a valid and legal Seed Production Unit and a Seed Processing Plant in the name and style of M/s. Mahalaxmi Seeds Corporation. The petitioner is engaged in business of seed production, seed processing and other allied activities in terms of Section 9 of the Seeds Act, 1966 (hereinafter referred to as the 'Act of 1966') and in accordance with the rules framed thereunder. It is submitted that under Section 9 of the Act of 1966 the petitioner was having a valid certificate which was renewed from time to time, the last renewal for a period of three years was done vide Renewal No. 45 dated 19.01.2018.

It is submitted that on 30.10.2018 the District Agriculture Officer, Begusarai noticed certain irregularities in the running of the petitioner's Seed Processing Plant, he informed the respondent agency and thereafter on the next date i.e. on 31.10.2018 the In-charge Deputy Director, Seed Certification Agency, Bhagalpur along with the Director, Bihar State Seed and Organic Certification Agency, Mithapur, Patna, District Agriculture Officer, Begusarai and the Seed Certification Inspector, Darbhanga inspected the petitioner's



premises, alleging many irregularities the Inspection Committee recorded certain irregularities in the matter of intake of masoor seeds as according to them the intake of masoor seeds was being done through tractors, pickup vans and trucks. The petitioner's plant, in absence of any valid documents, was liable for converting masoor foodgrains, procured from elsewhere, into seeds and the same has been found in contravention of the provisions of the Act of 1966 and rules framed thereunder.

Referring to Annexure-P/2 which is the inspection report dated 31.10.2018, learned counsel submits that the inspection report recommended for cancellation of the registration of petitioner's establishment with immediate effect and to blacklist the petitioner's establishment from its seeds business. On the same date, the In-charge, Deputy Director, Seed Certification Agency, Bhagalpur filed a first information report before the Station-in-charge, Barauni Police Station for institution of FIR against the petitioner and on the next day itself the petitioner received the impugned letters/orders bearing No. 1305 and 1310 dated 01.11.2018 informing him that his unit's registration has been cancelled with immediate effect.

In the counter affidavit filed on behalf of respondent no. 4 there is no whisper of statement that prior to passing of the



impugned orders the respondent authorities had given any opportunity to the petitioner to show cause. Learned counsel for the State has, in course of argument, taken a fair stand saying that in terms of Section 10 of the Act of 1966 read with Clause 15 of the Seeds Control Order, 1983 (hereinafter referred to as the 'Control Order'), an appropriate opportunity of hearing to the petitioner is to be provided.

Having heard learned counsel for the petitioner and learned counsel for the State, as this Court has found that within two days without giving any opportunity to show cause to the petitioner in complete violation of the provisions of the Act of 1966 and the Control Order, the impugned orders were passed by the respondent no. 4, the impugned orders as contained in Annexures 'P/4' and 'P/4A' to the writ application are quashed with liberty to proceed afresh in accordance with law.

Further it is noticed from the submission of learned counsel for the petitioner that the impugned orders were passed within two days only which has got a civil consequence, this Court would direct the respondent no. 2 to look into the matter and find out as to whether the impugned orders were passed in haste, irresponsibly and if so who are responsible for the same. In this connection this Court would take note of the judgment of the Hon'ble Apex Court in the case of **Lucknow**



Development Authority vs. M.K. Gupta reported in 1994 (1) SCC 243 and in the case of **Delhi Airtech Services Private Limited and Anr. Vs. State of Uttar Pradesh & Anr.** reported in 2011(9) SCC 354 what has been held are quoted hereunder respectively for a ready reference:-

“11.....Public administration, no doubt involves a vast amount of administrative discretion which shields the action of administrative authority. But where it is found that the exercise of discretion was malafide and the complainant is entitled to compensation for mental and physical harassment then the officer can no more claim to be under protective cover.....”

“215.....The principles of public accountability and transparency in State action are applicable to cases of executive or statutory exercise of power, besides requiring that such actions also not lack bona fides. All these principles enunciated by the Court over a passage of time clearly mandate that public officers are answerable for both their inaction and irresponsible actions. If what ought to have been done is not done, responsibility should be fixed on the erring officers; then alone, the real public purpose of an answerable administration would be satisfied.” (emphasis supplied)

This Court directs that the State shall pay a cost of Rs. 10,000/- to the petitioner for fighting this litigation which arose because of the impugned orders passed by the respondents without following the established procedure of law. The cost so



paid to the petitioner shall be realized from the erring officials in
accordance with law.

This writ application stands allowed to the extent
indicated herein above.

(Rajeev Ranjan Prasad, J)

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