

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7694 of 2019

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Umesh Singh Son of Sadhnath Singh, Resident of Village/Moh.-Buniyadganj,
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, Wazirganj, District- Gaya
5. The Block Supply Officer, Manpur, Dist.- Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binay Kumar, Adv.
For the Respondent/s : Mr.Alok Ranjan, AC to AAG5

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 07-10-2020 Heard Mr. Binay Kumar, learned counsel for the petitioner and Mr. Alok Ranjan, learned A.C. to A.A.G 5 through Video Conferencing.

2. The petitioner in this writ petition seeks quashing of order dated 17.01.2019 as contained in Memo No.85 passed by the Sub-Divisional Officer, Sadar, Gaya whereby the Sub-Divisional Officer, Sadar, Gaya cancelled the P.D.S. licence of the petitioner.

3. Learned counsel for the petitioner submits that the petitioner received notice by which the petitioner was called upon to give his show-cause within three days. The petitioner



filed his show-cause on 15.09.2018 but without taking into consideration the show-cause of the petitioner, the Sub-Divisional Officer, Sadar, Gaya cancelled the licence of the petitioner.

4. Learned counsel for the petitioner submits that although the Sub-Divisional Officer, Sadar, Gaya has stated in his order that on the basis of consideration, it appears that the show-cause filed by the petitioner is concocted, not based on facts but the explanation of the petitioner has not at all been considered. The petitioner has satisfactorily explained all the allegations made against him and stated that on the day of inspection, the shop was closed on account of the fact that he had gone to the doctor for treatment of his son but the explanation of the petitioner has not been considered. It is further submitted that the petitioner stated in his explanation that he used to issue cash memo to the customers but the cash memo has not been verified. Therefore, the order is cryptic and does not reflect the facts that the show-cause filed by the petitioner has been considered in its true perspective and a reasoned order has been passed.

5. Mr. Alok Ranjan, learned A.C. to A.A.G.5 while supporting the impugned order drew my attention that the entire



documents, the enquiry report as well as the statements of the agitationists were attached to the notice in pursuance thereof. Although only three days time was granted to the petitioner to file show-cause but the order has been passed only after the petitioner filed his show-cause and the Sub-Divisional Officer considered the show-cause of the petitioner. Therefore, the order does not require any interference. It is further submitted that the order is appealable. There is a provision of statutory appeal. The petitioner has straightaway come to this Court without availing the statutory provision of appeal.

6. Having considered the submissions of both sides, I find that of course the petitioner has straightaway come to this Court without availing the alternative and efficacious remedy of statutory appeal but on perusal of the order impugned, it appears that the Sub-Divisional Officer has only mentioned the explanation offered by the petitioner but did not advert nor stated any reason for disbelieving the explanation of the petitioner and thus I find that the order is cryptic and if the explanation of the petitioner is not considered, it shall be deemed that sufficient opportunity has not been provided to the petitioner and on this account, the order shall vitiate. Therefore, the impugned order is not sustainable and is fit to be set aside.



7. Accordingly, the writ petition is allowed. The order dated 17.01.2019 as contained in Memo No.85 is set aside. The matter is remitted to the Sub-Divisional Officer, Sadar, Gaya to pass order in accordance with law within two months from the date of receipt of this order.

(Prabhat Kumar Jha, J)

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