

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7774 of 2020

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Rajiullah Khan Son of Niyamatullah Khan, Resident of Village and P.O. Kopa, P.S. Kopa, District-Saran at Chapra.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Consumer and Food Protection Department Government of Bihar, Patna.
2. The District Magistrate, Saran at Chapra, District-Saran at Chapra.
3. The District Supply Officer, Saran at Chapra, District-Saran at Chapra.
4. The Sub-Divisional Officer, Sadar Chapra, District-Saran at Chapra.
5. The Circle Officer, Jalalpur, District-Saran at Chapra.
6. The Block Supply Officer, Jalalpur, District-Saran at Chapra.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Shashi Bhushan Kumar Manglam, Advocate

For the Respondents : Mr. Arvind Ujjawal, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 29-09-2020

This matter has been taken up for hearing through video conference. Learned counsel for the petitioner undertakes that all defects pointed out by the stamp reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e-filing shall be made, without delay immediately upon resumption of physical functioning of the Court, and in any event within one month thereof. Learned counsel for the respondents states that they have no objection in this regard and the matter be taken up on merits in view of the stated urgency.

2. The following reliefs as formulated by the petitioner have been claimed in the writ petition –



“(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 18.06.2020 passed by the respondent no. 4 and issued under his memo no. 3085 dated 18.06.2020 whereby and whereunder the respondent no. 4 has been pleased to cancel the petitioner’s license under the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as Control Order, 2016).

(II) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the respondent authorities for restoration of the petitioner’s Public Distribution System (hereinafter referred ‘to P.D.S.’) License and supply of food grains of the consumers attached with the said P.D.S. shop on the ground that the order canceling the license has been passed by the respondent no. 4 in utter disregard to the principles of NATURAL JUSTICE as also the provisions contained under Section 27(ii) of the Control Order, 2016.

(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that the impugned order dated 18.06.2020 (Annexure P-2) cancelling his PDS licence has been passed without grant of reasonable opportunity in violation of the Bihar Targeted Public Distribution



System (Control) Order, 2016. It is submitted that such order has thus been passed without observing the principles of natural justice and cannot be sustained in view of numerous decisions of this Court, as also held recently in CWJC No. 6093 of 2020 (Shambhu Nath Jha vs. The State of Bihar and others). It is further submitted that the impugned order is not sustainable also because the same is based on grounds which travel beyond the show cause notice. Moreover, the petitioner was never supplied a copy of the report of the inspection carried out by the Land Reforms Deputy collector and the Circle Officer, in absence of which the petitioner could not be expected to file an effective show cause reply. The provisions of Section 27(ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016 have also not been complied with as the petitioner was not noticed against proposed cancellation of his license which is a mandatory requirement.

4. Learned counsel for the State opposes the petition, submitting that opportunity of hearing was duly provided to the petitioner in terms of show cause notice in memo no. 2714 dated 21.05.2020 (Annexure P-1) to which the petitioner has duly responded through his reply filed on 06.06.2020 (Annexure P-2). It is therefore incorrect to say that reasonable opportunity was not provided to the petitioner. The other submissions of the petitioner have however not been controverted.



5. Having heard the parties and on consideration of the materials on record, this Court finds that the contention that the petitioner was not granted an opportunity of hearing is devoid of merit, considering that a show cause notice was duly served upon him and to which he has filed his reply. However, this Court also takes note of the statement made in paras-14 & 15 of the writ petition, inter alia, summarizing the grounds taken in show cause reply and submitting that such reply has not been considered while passing the impugned order. The petitioner's show cause reply (Annexure P-2) is a detailed one in which specific pleas have been raised in respect of each allegation. The other submissions of the petitioner impugning the order of cancellation have not been disputed by the counsel for the State.

6. Accordingly, the impugned order contained in Memo No. 3085 dated 18.06.2020 (Annexure P-3) passed by the Sub-Divisional Officer, Sadar Chapra, District - Saran at Chapra (Respondent No. 4) is hereby quashed and the matter is remanded to him to consider and dispose of the matter afresh by a speaking order after grant of opportunity of hearing to the petitioner in accordance with law. Licence of the petitioner shall be restored without delay until fresh orders are passed by the Respondent No. 4.

7. It is also made clear that in view of the ongoing Covid-19 pandemic, any correspondence between the parties may be



made through e-mail and the petitioner shall be at liberty to request the concerned authority for hearing through video conference. To enable the same, the petitioner shall furnish his mobile number and e-mail ID on the e-mail address of learned Advocate General not later than by 05.10.2020 for onward transmission to the concerned authority.

8. The writ petition stands allowed as above.

9. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	01.10.2020
Transmission Date	N.A.

