

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10229 of 2019

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Shambhu Prasad S/o Kuldip Prasad, Vill.- Musachak, P.s.- Bairginiya, Distt.- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Food and Consumer Protection Department, Bihar, Patna
3. The District Magistrate Sitamarhi, Distt.- Sitamarhi
4. The Sub Divisional Officer Sadar, Distt.- Sitamarhi
5. The Assistant District Supply Officer Sitamarhi, Distt.- Sitamarhi
6. The Block Supply Officer Bairginiya Block, Distt.- Sitamarhi

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anil Chandra, Adv.
For the Respondent/s : Mr.Arvind Ujjwal (Sc4)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 27-11-2020 Heard both sides through Video Conferencing.

2. The petitioner in this writ petition seeks quashing of
the following reliefs:-

- (i) To quash the order dated 29.09.2014 as contained in Memo No.631 by which the Sub-Divisional Officer, Sitamarhi Sadar cancelled the P.D.S. shop licence of the petitioner bearing License No.06 of 2007.
- (ii) To quash the order dated 05.03.2019 passed in Supply Appeal No.29 of 2018 by which the District Magistrate, Sitamarhi rejected the appeal of the petitioner.
- (iii) To restore the P.D.S. shop licence of the petitioner bearing License No.06 of 2007.

3. The sole contention of learned counsel for the



petitioner is that the Sub-Divisional Officer, Sitamarhi Sadar while cancelling the licence of the petitioner did not consider the show-cause filed by the petitioner. The show-cause of the petitioner has been rejected in one line holding that it is untrue and unsatisfactory. The rejection of show-cause in one line without giving reason vitiates the order and the same cannot be rectified, even if the appellate authority discussed the reasons while dismissing the appeal. It is further submitted that since the matter has not been remanded, he did not move the revisional court as the initial order cancelling the licence of the petitioner is illegal on the ground of non-consideration of the show-cause which amounts that the order is passed in violation of the principles of natural justice.

4. Mr. Arvind Ujjwal, on the other hand, while supporting the order of the appellate authority submits that there is a statutory provision of revision before the revisional commissioner. The petitioner had moved this court in CWJC No.21313 of 2014 against the order dated 29.09.2014 as contained in Memo No.631 passed by the Sub-Divisional Officer, Sitamarhi Sadar and this court vide order dated 17.04.2018 directed the petitioner to prefer appeal against the order of the Sub-Divisional Officer before the Collector.



Therefore, instead of remanding the case to the court of Sub-Divisional Officer, Sitamarhi Sadar, the petitioner should be directed to avail the statutory provision of revision before the revisional commissioner.

5. Having considered the submissions of both sides and on perusal of the order passed by the Sub-Divisional Officer (Annexure 8) as well as the order of the Collector (Annexure 9), I find that of course there is a statutory provision of revision but once the order is passed by the original authority without providing sufficient opportunity to the petitioner and even the show-cause filed by the petitioner is not considered and the same is rejected in one line holding that it is untrue and unsatisfactory, the quasi judicial authority is bound to pass order affecting the civil rights of a person by a reasoned order and the order must reflect the reasons for rejecting the contention of the petitioner. Such defects cannot be cured in appeal or revision. Therefore, I find that the order of the Sub-Divisional Officer, Sitamarhi Sadar is illegal and not sustainable. Accordingly, the appellate authority suffers from the same vice. Both orders dated 29.09.2014 (Annexure 8) and 05.03.2019 (Annexure 9) are set aside and the matter is remitted to the court of Sub-Divisional Officer, Sitamarhi Sadar to decide the case of the



petitioner afresh and dispose of the case of the petitioner in accordance with law by a reasoned order within four months from the date of receipt of this order. However, it is made clear that during pendency of the petition, the P.D.S. licence shall not be restored to the petitioner.

6. Accordingly, the writ petition is allowed.

(Prabhat Kumar Jha, J)

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