

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17843 of 2019

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Ashok Sah @ Ashok Kumar Sah Son of Chhedi Sah Resident of Village-
Mishra Bandhaura, P.O.-P.S.-Block-Vijaipur, Sub Division-Hathua, District-
Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna.
3. The Commissioner, Saran Division, At-Chapra, District Saran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5
For the Respondent/s : Mr.S.Raza Ahmad (AAG 5)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 17-06-2020

This matter has been taken up through virtual
Court proceeding.

Heard learned counsels for the parties.

The present writ application has been filed for quashing the order dated 5.7.2019 passed in Restoration Case No. 4 of 2019 by the respondent no.3, the Divisional Commissioner, Saran, whereby the petitioner's application for restoring the Supply Revision Case No. 199 of 2016 has been dismissed on merits. Further prayer has been made for quashing the order dated 28.9.2018 passed in Supply Revision Case No. 199 of 2016 by the respondent no.3, the Divisional



Commissioner, Saran whereby the revision was also dismissed in default. The prayer stipulated in paragraph 1 of the writ application reads as follows:

“A. Quashing the order dated 05.07,2019 in Restoration Case no. 4/2019 passed by the learned Court of the Commissioner Saran Division Chapra (Annexure -5) whereby and where under the Restoration Case No 4/19 has been dismissed by the learned Court above referred.

B. And further, in consequence, for the quashing of the order dated 28.09.2018 passed in Supply Revision case no 199/2016 passed by the court of learned Saran Division Chapra (Annexure – 2) where by and where under the learned court above referred has dismissed the Supply Revision Case no. 199/2016; in default.

C. And further for a direction to the Respondent No. 3 to restore the supply Revision Case No 199/2016 and decide the same, upon the merits of the matter; On amongst the following grounds.”

Learned counsel for the petitioner submits that the petitioner was a PDS dealer, having Licence No.5 of 1998 and 53 of 2007. Vide order dated 17.3.2016, the SDO, Hathua cancelled the PDS licence of the petitioner which was challenged in Supply Appeal Case No. 12 of 2016 before the



Collector, Gopalganj. The appeal was dismissed vide order dated 15.7.2016 by the Collector, Gopalganj and the said order passed in appeal was challenged in revision being Supply Revision Case No. 199 of 2016 before the Divisional Commissioner, Saran which was dismissed vide order dated 28.9.2018 in default. Consequently, the restoration was filed, but the same was also dismissed by the respondent no. 3 vide order dated 5.7.2019 passed in Restoration Case No. 4 of 2019. It is further submitted that the petitioner could not appear during hearing of the revision since the wife and mother were suffering from serious ailment and subsequently both died.

Learned counsel for the respondents State submits that enough opportunity was given to the petitioner and then the revision was dismissed for default and no documentary proof was brought on record, as a result, the restoration application was dismissed.

Considering the rival submissions of the learned counsels for the parties and keeping in view the fact that on affidavit the petitioner has claimed that his wife was suffering from cancer and his mother was seriously ill and both died during the pendency of the proceedings, the Revision application was not decided on merits, hence the orders dated



5.7.2019 passed in Restoration Case No. 4 of 2019 and the order dated 28.9.2018 passed in Supply Revision Case No. 199 of 2016 by the respondent no.3 are set aside. It is expected from the respondent no. 3, the Divisional Commissioner, Saran to decide the revision of the petitioner on merits in accordance with law within a period of ten weeks from the date of receipt/production of a copy of this order, after giving opportunity to the parties concerned.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

anil/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

