

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.267 of 2019

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Raj Kumari Devi Wife of Sri Vijay Shankar Choudhary, Resident of Village-
Phulwaria, P.O.- Barauni, P.S.- Phulwaria, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector, Begusarai, District- Begusarai.
3. The Sub-Divisional Officer, Teghra, District- Begusarai.

... .. Respondent/s

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 09-10-2020 Heard Mr. Rajeev Kumar Labh, learned counsel for

the petitioner and Mr. Alok Ranjan, AC to AAG 5 through Video

Conferencing.

2. The petitioner in this writ petition seeks quashing
of order dated 18.01.2017 as contained in Memo No.16 passed
by the Sub-Divisional Officer, Teghra whereby the fair price
shop licence of the petitioner has been cancelled. The petitioner
further seeks quashing of the order dated 28.09.2018 passed by
the Collector, Begusarai in Miscellaneous Appeal (P.D.S.) Case
No.12 of 2017 by which the appeal of the petitioner has been
rejected.

3. Learned counsel for the petitioner submits that the
Sub-Divisional Officer, Teghra by a letter as contained in Memo



No.264 dated 03.11.2016 called upon the petitioner to submit an explanation with regard to the complaint about irregularity committed by the petitioner in distribution of foodgrains. At the same time, Sub-Divisional Officer, Teghra vide Memo No.265 (Supply) dated 03.11.2016 directed the Block Supply Officers, Bachwara and Bhagwanpur to enquire about the irregularity committed by the petitioner in running a Fair Price Shop. The petitioner submitted her show-cause on 23.12.2016. The Block Supply Officers, Bachwara and Bhagwanpur also submitted their enquiry reports but both the enquiry reports were not provided to the petitioner. It is further submitted that after first show-cause filed by the petitioner, the Sub-Divisional Officer, Teghra sent another notice to the petitioner. The petitioner also filed detailed show-cause in the month of January, 2017 but the Sub-Divisional Officer, Teghra rejected the first show-cause filed by the petitioner holding that the same is unsatisfactory and not worth reliable. The Sub-Divisional Officer, Teghra did not consider the second show-cause filed by the petitioner. It is further submitted that the Sub-Divisional Officer, Teghra while considering the matter of cancellation of licence of the petitioner should not have rejected the show-cause of the petitioner mere on the finding that the same is not satisfactory



and worth reliable. No reason has been assigned while rejecting the show-cause of the petitioner and, therefore, the order cancelling the licence of the petitioner is vitiated. It is further submitted that the petitioner filed appeal before the Collector, Begusarai against the order of cancellation of licence of the petitioner by the Sub-Divisional Officer, Teghra but the Collector, Begusarai by order dated 28.09.2018 (Annexure 10) rejected the appeal mentioning that there are many complaints received by the Sub-Divisional Officer, Teghra about irregularity committed by the petitioner. The Collector, Begusarai did not consider the grounds of both show-cause filed by the petitioner. Therefore, the appellate order is also vitiated and illegal.

4. Mr. Alok Ranjan, learned AC to AAG 5 supporting the order impugned drew my attention towards both show-cause filed by the petitioner but when he was confronted with the findings recorded by the Sub-Divisional Officer, Teghra and the Collector, Begusarai (appellate authority) that on what grounds the Sub-Divisional Officer, Teghra as well as the Collector, Begusarai rejected the show-cause filed by the petitioner, learned counsel could not give satisfactory reply.

5. Having heard the submissions of both sides and on



perusal of the records, I find that the Sub-Divisional Officer, Teghra firstly issued show-cause dated 03.11.2016 to the petitioner and on the same day the Sub-Divisional Officer, Teghra also directed the Block Supply Officers, Bachwara and Bhagwanpur to enquire and report. The petitioner filed her show-cause on 23.12.2016. On 23.12.2016 the Sub-Divisional Officer, Teghra again issued another show-cause notice to the petitioner annexing the reports of the Block Supply Officers, Bachwara and Bhagwanpur and called upon the petitioner to show-cause but the order shows that the Sub-Divisional Officer, Teghra did not consider the second show-cause filed by the petitioner much prior to the order dated 18.01.2017. The first show-cause of the petitioner has also been rejected holding that the same is unsatisfactory and not worth reliable. The Sub-Divisional Officer, Teghra is bound to assign and record the specific reason for holding that the first show-cause filed by the petitioner is not satisfactory and worth reliable and the grounds should have been specific in the order but the same has not been given. Therefore, the order is cryptic and it can be held that the petitioner was not properly heard and without hearing the petitioner, the order was passed. The order of the appellate authority also suffers from the same illegality.



6. Having considered the facts aforesaid, I find that the order dated 18.01.2017 as contained in Memo No.16 (Annexure 1) passed by the Sub-Divisional Officer, Teghra and the order dated 28.09.2018 (Annexure 10) passed by the Collector, Begusarai are not sustainable and, therefore, both orders are quashed. The matter is remitted to the Sub-Divisional Officer, Teghra to proceed afresh in accordance with law and decide the case within three months from the date of receipt of this order.

7. In the result, this writ petition is allowed.

(Prabhat Kumar Jha, J)

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