

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1964 of 2019

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Kaushalya Devi Wife of Ramji Yadav Resident of Village- Singhpur, P.O. Sahdigi, Gram Panchayat Raj- Pagara, Block- Vijaipur, P.S. Vijaipur, Dist. 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 Collector-Cum District Magistrate, Gopalganj.
4. The Senior Deputy Collector, Gopalganj.
5. The District Supply Officer, Gopalganj.
6. The Sub-Divisional Officer, Hathua, Distt. Gopalganj.
7. The Block Supply officer, Vijaipur, Distt. Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5
For the Respondent/s : Mr.Arvind Ujjwal (Sc 4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 18-02-2021

The present writ petition has been filed for quashing of the order dated 25.08.2014 passed by the Sub-Divisional Officer, Hathua, whereby and where-under the P.D.S. license of the petitioner has been cancelled as also for restoration of the P.D.S. license of the petitioner with immediate effect.

2. The learned counsel for the petitioner has submitted that the present case arises out of the same transaction by which 18 P.D.S. licenses were cancelled by the S.D.O.,



Hathua and in a similar case, a co-ordinate Bench of this Court, vide order dated 25.01.2019 passed in CWJC No. 1394 of 2019, has been pleased to set aside the impugned order of that case, passed by the Sub-Divisional Officer, Hathua. It would be pertinent to reproduce the relevant portion of the aforesaid order dated 25.01.2019 passed in CWJC No. 1394 of 2019 herein below:-

“Having heard learned counsel for the parties and on perusal of the records, this Court finds that the petitioners in the aforesaid two writ applications had moved this Court in the year 2015 but their writ applications remained pending till those were disposed off on 18.08.2018. The petitioner has no doubt moved this Court recently, but in the opinion of this Court, the principles governing the writ applications and rejection thereof on the ground of delay and laches essentially lays down a test wherein a question arises as to whether the delay are such that it would make the petitioner disentitled for the reliefs prayed for in the writ application.

In the opinion of this Court, in the nature of the order passed by the Sub-Divisional Officer, which is totally without consideration and only five months back other writ application came to be disposed off vide Annexure 8 and 9 respectively the delay cannot be taken as a legal and valid ground to deprive the present petitioner from getting consideration of his case in like manner as have been provided by this Court to the other two writ applicants recently on 18.08.2018. This Court is, thus, inclined to reject the ground of delay and laches.

On perusal of the impugned order, as contained in Annexure-7, this Court is satisfied that even though the Sub- Divisional Officer has taken note of the contentions of the petitioner as disclosed in his



reply to the show cause notice, he has not considered those replies and as such this Court is of the considered opinion that the impugned order is liable to be set aside.

In result, the impugned order, as contained in Annexure-7 is set aside. The matter is remitted to the Sub- Divisional Officer, Hathua (respondent no.6) for fresh consideration and to pass a speaking order after giving an opportunity of hearing to the petitioner. Let the whole exercise be completed within a period of three months from the date of receipt/production of a copy of this order.

In case, the licensing authority is satisfied with the reply of the petitioner, the consequential benefits shall also be granted to the petitioner.”

3. The learned counsel for the State, Shri Arvind Ujjawal, SC-4, does not dispute the fact that a co-ordinate Bench of this Court, in a similar case, has set aside the order passed by the Sub-Divisional Officer, Hathua and the present case is identical to the said case, hence he has got no objection in case the present writ petition is disposed off in similar terms.

4. Accordingly, the impugned order dated 25.08.2014 passed by the Sub-Divisional Officer, Hathua, whereby and where-under the PDS licence bearing Licence No. 51 of 2007, pertaining to the shop of the petitioner, has been cancelled, is set aside and the matter is remitted back to the Sub-Divisional Officer, Hathua for fresh consideration as also for passing a speaking and a reasoned order, after giving an opportunity of



hearing to the petitioner herein.

5. It is needless to state that the entire exercise, as aforesaid. should be completed within a period of three months from the date of receipt/production of a copy of this order.

6. The writ petition stands allowed on the aforesaid terms.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
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