

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8330 of 2020

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Zahida Perween, Gender – Female, Aged about 31 years, Wife of Md. Basheer Badar, Resident of Village- Bahera, P.S.- Bahera, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Darbhanga, District- Darbhanga.
3. The Sub-Divisional Officer, Benipur, District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh
For the Respondent/s : Mr. Vijay Kumar Sinha, AC to AAG – 5

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 05-03-2021 Heard Mr. Rajeev Kumar Labh, learned counsel for the petitioner and Mr. Vijay Kumar Sinha, learned AC to A.A.G. No. -5 appearing for the State.

2. The present writ application has been filed for quashing the order contained in Memo No. 416 dated 01.06.2020 (Annexure – “1” to the writ petition) passed by the Sub Divisional Officer, Benipur / respondent no. – 3 by which the P.D.S. license of the petitioner has been cancelled.

3. The brief facts giving rise to the present writ application is that the petitioner is a P.D.S. dealer having license bearing no. 56 of 2016 and she was served show- cause through *WhatsApp* vide letter no. 415 on 31.05.2020 on 01.06.2020 at



about 16.25 P.M. stating therein that complaint of one Chano Devi has been received against the petitioner that she has not provided food grain to the complainant / consumer for the last 05 years and the petitioner was asked to submit her reply by 5.00 P.M. on 01.06.2020.

4. Learned counsel for the petitioner submits that adequate and reasonable opportunity was not provided to the petitioner to defend herself inasmuch as the notice in question was sent to the petitioner on *WhatsApp* in the afternoon of 01.06.2020 and the petitioner was directed to submit her reply on 01.06.2020 by 5 O' Clock in the evening. The time was too short for the petitioner to prepare the reply and submit it before the licensing authority. Learned counsel further submits that petitioner in that short period of time could not submit her reply and accordingly, the impugned order has been passed on 01.06.2020 itself cancelling the license of the petitioner. Learned counsel submits that the action of the petitioner is completely arbitrary and unreasonable inasmuch as the impugned order has been passed in haste.

5. On the other hand, learned counsel for the State referring to the counter affidavit submits that the petitioner failed to submit her reply to the show- cause and the licensing



authority after taking into consideration the materials available on record came to the conclusion that the petitioner has committed grave irregularity and illegality and has cancelled the P.D.S. license of the petitioner. Learned counsel further submits that there is provision for appeal before the Appellate Authority and the petitioner may be relegated to the remedy of appeal.

6. I have heard learned counsel for the parties and gone through the statement made in the writ application as well as in counter affidavit and from perusal of the counter affidavit it appears that the contention of the petitioner is correct that adequate opportunity was not given by the respondent- licensing authority before passing the impugned order inasmuch as from perusal of Annexure – “B” of the counter affidavit it is evident that show cause prepared vide letter no. 415 dated 31.05.2020 was served upon the petitioner through *What'sApp* on 01.06.2020 and before the petitioner could file reply to the show cause the P.D.S. license of the petitioner was cancelled. Accordingly, I come to the conclusion that the action of the respondent-authority is completely unreasonable and the impugned order has been passed in haste without giving adequate opportunity to the petitioner to defend her case and as such the same is hereby quashed and the matter is remitted back



to the respondent no.- 3 to pass a fresh order after giving reasonable opportunity to the petitioner to submit her reply.

7. It is made clear that a fresh show cause shall be issued to the petitioner within two weeks from the date of receipt / production of a copy of this order by the licensing authority i.e. respondent no. 3 giving the petitioner at least one week's time to submit her reply and upon receipt of the reply the respondent no. 3 shall pass a reasoned order within a further period of eight weeks thereafter.

8. The writ application is allowed to the extent as stated above.

(Anil Kumar Sinha, J)

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