

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7838 of 2020

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Dilip Kumar Mishra, Gender-Male, aged about 48 years, Son of Late Nageshwar Mishra, Resident of Village - Asi, P.S. Ghanshyampur, Circle - Gaurabauram, District- Darbhanga, Pin - 847203.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Food and Civil Supply, Bihar, Patna.
2. The Collector, Darbhanga.
3. The Licensing Officer-cum-Sub-Divisional Officer, Biraul, Darbhanga.
4. The Block Supply Officer, Gaurabauram, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kaushalesh Choudhary, Adv.
For the Respondent/s : Mr. Gyan Shankar, Adv.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date : 09-09-2021

Heard learned counsel for the petitioner and learned counsel for the respondents through video conference. Learned counsel for the petitioner hereby has filed an undertaking that all the defects pointed out by the stamp reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e-filing shall be made, without delay immediately upon resumption of normal physical functioning of the Court, and in any event within one month thereof.

2. The present writ petition has been filed for the following reliefs as formulated by the petitioner-

*“i. For issuance of an appropriate writ(s)/
Rule(s)/ Direction(s) in the nature of mandamus*



commanding the concerned respondent, for quashing the order dated 09.06.2020, contained in Memo No. 1302 dated 09.06.2020, issued by Licensing Officer-cum-Sub Divisional Officer, Biraul, Darbhanga, by which the License no. 2/17 of Petitioner's Public Distribution System Shop (PDS Shop), situated under Gram Panchayat Raj Aasi, Gaurabauram, Darbhanga has been cancelled, without providing him a reasonable opportunity, as required under Section 11(2) of the Bihar Trade Article (Licence Unification) order 1984, Rule 7(iv) and 7(v) of the Bihar Control Orders 2001 as well as Rule 27(2) of the Bihar Targeted Public Distribution System (Control) Orders 2016.

ii. For restoration of Petitioner's License No. 2/2017 of his PDS Shop, situated under Gram Panchayat Raj Aasi, Gaurabauram, Darbhanga, with all facilities, available to the PDS Shop.

iii. For grant of all other relief(s) to which the petitioner may found entitled, under the relevant provision."

3. To the initial objection on behalf of the State that the petitioner has also filed an appeal, the petitioner informs this Court that his application for withdrawal of the appeal has been permitted in terms of the order dated 06.08.2021 passed by the Collector-cum-District Magistrate, Darbhanga (Annexure-P/13).

4. Learned counsel for the petitioner then submits that pursuant to notice issued, a detailed show-cause notice was filed by him enclosing therewith, inter alia, affidavits from a number of his consumers who had categorically stated that they had no



complaint against the petitioner in the matter of supply of food grains. This crucial aspect has completely been ignored by the S.D.O., Biraul, Darbhanga while passing the impugned order dated 09.06.2020 (Annexure-P/1), thereby violating the principles of natural justice in having disregarded relevant material.

5. Learned counsel for the respondents appears and has been heard. It is submitted that the petitioner has an alternative remedy against the impugned order by way of appeal.

6. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. A perusal of the show-cause reply of the petitioner discloses that various pleas were raised and affidavits enclosed, which have however not been considered by the S.D.O. in the impugned order. There is therefore a complete violation of the natural justice to the prejudice of the petitioner. It is well settled that availability of an alternative remedy would not per se constitute a bar to the writ jurisdiction of this Court where the action complained of is in violation of natural justice.

7. In the above view of the matter, the impugned order dated 09.06.2020 (Annexure-P/1) is set aside. The matter is remanded to the Licensing Officer–cum– Sub-Divisional Officer, Biraul, Darbhanga (Respondent No.3) for passing orders afresh



after grant of an opportunity of hearing to the petitioner in accordance with law. In the meantime, supplies to the petitioner shall be restored.

8. The writ petition is allowed to the extent indicated above.

9. It is made clear that in view of the ongoing Covid-19 pandemic, any correspondence between the parties may be made through e-mail and the petitioner shall be at liberty to request for hearing through video conference. To facilitate disposal, the petitioner shall furnish his mobile number and email ID to the concerned respondent within a week from today.

10. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2021
Transmission Date	

