

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7449 of 2020

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Md. Sayeed Khan Son of Shah Mohammad Khan, Resident of Village-Sangrampur P.O.- Laugain, P.S.- Amarpur, Laugain Sahkund Banka Bihar 813108.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection, Government of Bihar, Patna.
2. The District Magistrate, Banka.
3. Sub Divisional Officer Banka.

... .. Respondent

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Appearance :

For the Petitioner	:	Mr. Sanjeev Kumar Mishra, Advocate
For the Respondent-State:		Mr. Ajay Kumar Rashtogi, AAG-10
		Mrs. Shilpi Keshari, AC to AAG-10

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 21-01-2021

The instant writ petition has been filed by the petitioner for setting aside the order as contained in Memo No.159 dated 27.05.2020 passed by respondent no.3 by which licence no. 49 of 2012 of the petitioner under Public Distribution System was cancelled. The petitioner has further prayed for a direction to the respondent to restore his licence no.49 of 2012.

2. Learned counsel for the petitioner submitted that the licence of the petitioner has been cancelled in the most arbitrary manner. He was not afforded any opportunity to file show-cause reply. He was also not supplied a copy of the inquiry report before passing an order of cancellation of licence.



3. Learned counsel for the petitioner contended that Rule 27 of the Bihar Targeted Public Distribution System (Control) Order, 2016 provides that if a licensee violates any provision of this Order or fails to comply duties and responsibilities assigned to the licensee, his license shall be cancelled by the licensing authority by a written order, and such a cancellation of license shall not affect other actions initiated/initiable under the Essential Commodity Act. He further contended that the said rule provides that no order of cancellation of a licence shall be made until the licensee has been given sufficient opportunity to state his case against the proposal of cancellation of his license.

4. Respondents have filed their counter-affidavit. Paragraph 6, 8 and 10 of the said counter affidavit reads as under:-

“6. That the averments made in paragraphs no.9 to 10 are not correct as the order impugned has been passed after issuance of notice to the petitioner and after considering his show cause. The petitioner has failed to brought on record any evidence with regard to the irregularities committed by him which was found in course of inspection of his PDS shop. The beneficiaries of the shop of the petitioner has also alleged several complaint against him which was not duly



explained by the petitioner in his show cause.

8. That the averments made in paragraphs nos.12 to 18 are not correct as the order contained in annexure-3 has been passed after considering the show cause filed by the petitioner in which he has failed to brought on records any evidence against the grievances and complaint made by the beneficiaries of the shop of the petitioner who had categorically stated about the irregularities committed by the petitioner such as supply of less grains to the beneficiaries and took more amount and ill treatment with the beneficiaries. The statements of the beneficiaries are sufficient to prove the irregularities committed by the petitioner. The petitioner has failed to prove that the allegation of irregularities made against him are incorrect.

10. That the petitioner has deliberately and intentionally suppressed the mandatory statement in the present writ application that he has got no alternative remedy than to move before this Hon'ble Court. The petitioner has got alternative remedy to file an appeal before the competent authority under Control Order 2016 as without availing the said remedy he has directly moved towards the Hon'ble Court which is not justified."

5. Learned counsel appearing for the



respondents submitted that the petitioner has not only an equally efficacious alternative statutory remedy of appeal before the competent authority under Rule 32 of the Bihar Targeted Public Distribution System (Control) Order, 2016 before the District Magistrate against the order impugned but also false averments have been made in paragraph 9 and 10 of the writ petition wherein it is stated that the order impugned has been passed without issuance of any notice to the petitioner and without inviting show-cause.

6. Having appreciated the rival submissions, I am not inclined to entertain the instant writ petition in extraordinary writ jurisdiction as the petitioner has failed to avail the statutory remedy of appeal available to him.

7. Accordingly, the writ petition is dismissed with liberty to the petitioner that if so advised, he may approach the appellate authority in accordance with law.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.01.2021
Transmission Date	NA

