

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 12426 of 2021

Prabhavati Devi Wife of Anand Shankar Prasad Resident of Maharana Pratap
Nagar, New Police Line P.S. and P.O. Nawada Ara Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Food and Civil Supply
Government of Bihar New Secretariat, Patna.
2. The District Magistrate, Bhojpur Ara.
3. The Sub Divisional Officer, Ara Bhojpur.

.. ... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Adv.
For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 24-09-2021 The instant case has been taken up for
consideration through the mode of Video
conferencing in view of the prevailing situation on
account of COVID 19 Pandemic, requiring social
distancing.

The present writ petition has been filed
seeking quashing of the order dated 26.06.2021,
passed by the Sub-Divisional Officer, Sadar Ara,
whereby and whereunder the PDS license of the
petitioner bearing license no. 47 of 2017 has been
cancelled.



The short point raised by the learned counsel for the petitioner for consideration is that a bare perusal of the impugned order dated 26.6.2021, passed by the Sub-Divisional Officer, Sadar Ara, would show that a non-speaking and an unreasoned order has been passed by the Sub-Divisional Officer, Sadar Ara, without taking into account the exhaustive reply dated 21.1.2021, filed by the petitioner and moreover, no clear, cogent and succinct reasons have been furnished for arriving at a decision to cancel the license of the petitioner. It is also submitted that the impugned order dated 26.6.2021 smacks of non-consideration of the reply of the petitioner as well as non-application of mind inasmuch as the same has virtually taken into consideration only the opinion submitted by the Block Supply Officer, Sahar, by his letter dated 03.02.2021, which in fact has also been extensively reproduced in the impugned order dated 26.6.2021 and has formed a major part of the said order dated 26.6.2021.

Per contra, the learned counsel for the



Respondent-State, Sri Upendra Pratap Singh (AC to SC-4) has submitted that though it is true that the opinion of the Block Supply Officer, Sahar has been extensively quoted, but the last portion of the impugned order dated 26.6.2021 would show that the reply of the petitioner has been found to be unreasonable, hence, the license of the petitioner has been cancelled.

I have heard the learned counsel for the parties and gone through the materials on record from which this Court finds that admittedly, the Sub-Divisional Officer, Ara, in the impugned order dated 26.6.2021, has failed to either consider the reply filed by the petitioner or apply his independent mind by furnishing clear, cogent and succinct reasons for arriving at a decision to cancel the license of the petitioner, hence, the impugned order dated 26.6.2021 does not show any consideration of the reply filed by the petitioner, which is apparent on the very face of the impugned order dated 26.6.2021, thus, the same is not sustainable in the eyes of law, consequently,



the same is quashed and the matter is remanded back to the Sub-Divisional Officer, Ara for passing appropriate orders afresh, in accordance with law, after considering the reply of the petitioner dated 21.1.2021. Reference in this connection be had to a decision of the Hon'ble Apex Court, rendered in the case of ***Oryx Fisheries Private Limited vs. Union of India & Others***, reported in (2010) 13 SC 427.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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