

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8327 of 2020

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Ramesh Kumar @ Ramesh Yadav Son of Jageshwar Yadav Resident of
Village- Badwasani, P.S.-Katoria, District-Banka.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Kumar Labh, Advocate
For the Respondent/s : Mr. Alok Ranjan, A.C. to AAG-5

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 12-03-2021 Heard Mr. Rajeev Kumar Labh, learned counsel

for the petitioner and Mr. Alok Ranjan, A.C. to AAG-5

learned counsel appearing for the Respondents-State.

2. The present writ application has been filed for quashing of the order bearing Memo No 129 dated 14.05.2020 (Annexure-1) passed by the Sub Divisional Officer, Banka (Respondent No. 3) whereby the license of fair price shop of the petitioner has been cancelled.

3. The brief facts giving rise to the present writ application is that the petitioner is a license holder of fair price shop having license No. 29/12. The petitioner was served with a show cause notice dated 10.04.2020 issued by



the licensing authority that the fair price shop of the petitioner was inspected by him on 8.4.2020 and during inspection following irregularities were found:

- i) The shop of the petitioner was found closed without any notice.*
- ii) Notice Board/Price Board were not found near the shop of the petitioner and;*
- iii) It was reported that the petitioner was residing in village Katoriya and was never available at his shop.*

4. The petitioner was asked to submit his reply within three days, which the petitioner submitted on 14.04.2020.

5. Learned counsel for the petitioner submits that the shop of the petitioner was inspected on 8.4.2020 and within three days time, he was required to submit reply to the show cause dated 10.04.2020 inasmuch as the time granted for submission of reply was not sufficient. Learned counsel referring to the impugned order submits that the licensing authority while passing the impugned order has taken into consideration the complaint forwarded by the District Magistrate as well as the District Supply Officer on 28.04.2020 and further complaint of Smt. Savita Devi,



Ward Member, Ward No. 03, to the effect that the petitioner was not making supply of the food-grain regularly and the less quantity of the food-grain was being supplied by the petitioner. Learned counsel further submits that the alleged complaint received from the office of the District Magistrate, Banka and from Ward Member, Ward No. 03, Banka, were never served upon the petitioner before impugned order was passed and the respondent No. 3 while passing the impugned order, has taken into account the complaint also, which is in complete violation of principle of natural justice.

6. On the other hand, learned counsel for the State referring to the counter affidavit submits that there is an alternative remedy available to the petitioner inasmuch as, as per Rule 32 (iii) of Bihar Targetted Public Distribution System (Control) Order, 2016, there is provision of appeal and petitioner may be relegated to the remedy of appeal.

7. I have heard learned counsel for the parties and have gone through the writ petition as well as counter affidavit. From perusal of the impugned order, it appears that the Sub Divisional Officer, Banka, Distt. Banka



(Respondent No. 3) while passing the order of cancellation of PDS licence of the petitioner has relied upon the complaint forwarded by the District Magistrate, Banka, as well as the Ward Member, Ward No. 3, Banka, and the copies of the complaint so received by the licensing authority, have not been made available to the petitioner and the impugned order has been passed without supplying the necessary materials and the complaints to the petitioner.

8. Accordingly, I am of the considered view that the action of the licensing authority in not furnishing the materials which have been relied upon by him at the time of passing of the impugned order, amounts to violation of principle of natural justice.

9. As such, the impugned order contained in Memo No.129 dated 14.05.2020 is hereby quashed and the matter is remitted back to the Sub Divisional Officer, Banka (Respondent No. 3) for passing a fresh order after furnishing the copies of relevant materials and complaints, if any, to the petitioner. The relevant materials relied upon by the licensing authority shall be made available to the petitioner within a period of three weeks from the date of



receipt/production of a copy of this order and upon receipt of the explanation/reply of the petitioner within two weeks thereafter, the Respondent No. 3 shall pass a reasoned order within a further period of sixty days.

10. It is made clear that till the fresh order is passed by the Sub Divisional Officer, Banka, (Respondent No. 3), the status quo as of today shall be maintained and the interim arrangement if any shall continue.

11. This writ application is, accordingly, allowed with the aforesaid terms.

(Anil Kumar Sinha, J)

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