

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8545 of 2020

=====

Urmila Devi W/o Late Kamta Singh Resident of Rikabganj, Tekari, P.S.-
Tekari, District-Gaya

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar at Patna.
2. The District Magistrate, Gaya at Gaya.
3. The Sub-Divisional Officer (S.D.O.), Tekari, District-Gaya.
4. The District Supply Officer, District-Gaya.
5. The Block Supply Officer, Tekari Gaya.

... .. Respondents

=====

Appearance :

For the Petitioner : Mr. Sanchay Srivastava, Advocate
For the State : Mr. Maruth Nath Roy, AC to SC-4

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 06-04-2021

Heard learned counsel for the petitioner and learned counsel for the State through video conference. Learned counsel for the petitioner undertakes that all 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 following reliefs as formulated by the petitioner have been claimed in the writ petition –



“(I) For issuance of an appropriate writ(s)/order(s)/direction(s) in the nature of Certiorari for quashing and setting aside Licence Cancellation Order dated 24.04.2020 (contained in Annexure-P/4) passed vide Letter No.150/R, Tekari passed by Sub-Divisional Officer (S.D.O.), Tekari, Gaya by which the P.D.S. Shop License bearing Licence No. 57/2016 of the petitioner has been terminated without issuance of any show cause or opportunity of hearing on the ground that the said order has been passed in complete disregard and ignorance of the Principles of Natural Justice (Audi Altrem Partem) and Article 14 of the Constitution of India;

(II) For issuance of an appropriate writ(s)/order(s)/direction(s) in the nature of Certiorari for quashing and setting aside Enquiry Report dated 23.04.2020 submitted by Block Supply Officer, Takari, Gaya vide his Letter No. 64 by which baseless and unfounded allegations have been alleged against the petitioner and recommendation for termination/cancellation of licence of the petitioner has been made without issuance of any show-cause/explanation or opportunity of hearing on the ground that the said order has been passed in complete disregard and ignorance of the Principles of Natural Justice (Audi Altrem Partem) and Article 14 of the Constitution of India;

(III) For issuance of an appropriate writ/order/direction(s) in the nature of Mandamus for a mandatory injunction commanding the concerned respondents to forthwith withdraw, rescind and/or cancel the order dated 24.04.2020 and not to proceed



with taking any coercive action against the petitioner including fresh suspension of licence of the petitioner;

(IV) For issuance of an appropriate writ/order/direction(s) in the nature of Mandamus for ex-parte and interim stay on the order dated 24.04.2020 and further for restraining the respondents from taking any coercive action against the petitioner;

(V) And for issuance of any other relief or relief(s) for which the petitioner entitled for.”

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that show cause notice was not served upon the petitioner and he was not given any opportunity of being heard for adducing evidence in that regard. A specific stand has been taken in paragraph 16 of the writ petition that the impugned order of cancellation of licence has been passed without serving show cause notice to the petitioner.

4. Learned counsel for the respondents appears and has been heard.

5. In the above view of the matter, this Court is satisfied that non-service of the show cause notice to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 24.04.2020 (Annexure-P/4) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Tekari, Gaya for taking decision afresh in the matter after serving show cause notice upon the petitioner and



granting an opportunity of hearing in accordance with law. License of the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 3.

6. It is made clear that in case the stand of the petitioner denying service of show cause notice prior to order of cancellation being passed is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

7. The writ petition stands allowed as above.

8. 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)

Ibrar//-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.04.2021
Transmission Date	N.A.

