

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3054 of 2021

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Bhuneshwar Das Son of Fulchan Das Resident of Village- Itwan, Police
Station- Gurua, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Civil Supply
Department, Old Secretariat, Patna.
2. The Secretary, Food and Civil Supply Department, Old Secretariat, Patna.
3. The Learned Commissioner, Magadh Division, Gaya.
4. The District Magistrate, Gaya.
5. The Sub Divisional Officer-cum-Licensing Authority, Sherghati, Gaya.
6. The Circle Officer, Sherghati, Gaya.
7. The District Supply Officer, Gurua, Gaya.
8. The Block Supply Officer, Gurua, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Adv.
Mr.Sanjeet Kumar, Adv.
Ms. Preety Kunwar, Adv.
Mr. Ujjawal Bhushan, Adv.

For the State : Mr. Md. Anisul Haque, AC to AAG-5
Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 04-10-2021 The present writ petition has been filed
seeking quashing of the order dated 7.3.2020
passed by the District Magistrate, Gaya whereby
and whereunder the appeal filed by the petitioner
bearing Supply Appeal No. 33 of 2016 has been
rejected.

The brief facts of the case are that the



Sub-Divisional Officer, Sherghati, Gaya, by an order dated 28.6.2016, had cancelled the PDS license of the petitioner bearing license no. 313 of 2007, whereafter the petitioner had filed Supply Appeal No. 33 of 2016 before the District Magistrate, Gaya, however, the same was rejected by an order dated 20.10.2016. The petitioner had then filed a revision petition before the Divisional Commissioner, Magadh Division, Gaya, however, the learned Divisional Commissioner, Magadh Division, Gaya, by an order dated 7.12.2019 passed in Supply Revision Case No. 199 of 2016, had come to a finding that the order passed by the District Magistrate, Gaya, is unreasoned, hence, had quashed the order passed by the District Magistrate, Gaya, dated 20.10.2016 and remanded the matter back to the District Magistrate, Gaya for passing a speaking and a reasoned order, in accordance with law, after considering the show cause reply submitted by the petitioner. The learned Senior Counsel for the petitioner, Sri N.K.Agrawal, has submitted that the impugned



order dated 7.3.2020, passed by the District Magistrate, Gaya, in compliance of the directions of the Divisional Commissioner dated 7.12.2019, would show that the same is ad verbatim the earlier order dated 20.10.2016, passed by the District Magistrate, Gaya, hence, the ground on which the Divisional Commissioner, Gaya had set aside the order dated 20.10.2016, passed by the District Magistrate, Gaya, has become alive and the same reason would apply to the impugned order dated 7.3.2020, for the purposes of demonstrating that the same is perverse and unsustainable in the eyes of law.

Per contra, the learned counsel for the Respondent-State, Md. Anisul Haque (AC to AAG-5), submits that in case, the matter is remanded back to the respondent authorities, the case of the petitioner would be reviewed and appropriate reasoned order shall be passed, in accordance with law.

Having regard to the facts and circumstances of the case, this Court finds that the



impugned order dated 7.3.2020 passed by the District Magistrate, Gaya, smacks of non-application of mind as also suffers from grave illegality inasmuch as there is no difference in between the said order dated 7.3.2020 and the earlier order dated 20.10.2016, which was set aside by the Divisional Commissioner, by an order dated 7.12.2019, making it obvious that the District Magistrate, Gaya has mechanically passed an order, by closing the earlier order, without considering the reply submitted by the petitioner as also without considering the issues raised by the petitioner in the appeal filed by him, hence, the said order dated 7.3.2020, passed by the District Magistrate, Gaya is perverse and fit to be set aside, thus, is quashed. However, the matter is remanded back to the District Magistrate, Gaya, who shall objectively consider the show cause reply of the petitioner as also the appeal filed by the petitioner and after giving an opportunity of hearing to the petitioner, shall pass a speaking and a reasoned order, in accordance with law, within a period of



four weeks of receipt / production of a copy of this
order.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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