

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15754 of 2019

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Sunil Kumar S/o Indranath Ray @ Panchhi Lal Ray Resident of Ward No.-03,
P.S.- Raghapur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate Vaishali at Hajipur.
3. The Sub Divisional Officer Hajipur.
4. The Block Development Officer Hajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. advocate M/s. Anujit Sinha & Preety Kumari
For the Respondent/s	:	Mr. Upendra Pratap, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 01-03-2021 Heard both sides.

The petitioner, in this writ petition, seeks quashing of the order dated 19.06.2019 passed by the Sub Divisional Officer, Hajipur in Supply Case No. 111/2018 by which PDS license of the petitioner has been cancelled on the ground that petitioner violated different orders and provisions of Bihar Targeted Public Distribution System (Control) Order, 2016.

Mr. N. K. Agrawal, the learned senior counsel for the petitioner, submits that petitioner was called upon vide letter contained in memo No. 1024 dated 24.12.2018 to show cause as to why his license should not be cancelled on account of violation of different orders and provisions of Bihar Targeted Public Distribution System (Control) Order, 2016 and irregularities committed by him, duly mentioned in the show cause notice. The petitioner gave detailed reply but the Sub



Divisional Officer, Hajipur rejected the show cause of the petitioner in one line that the show cause is not satisfactory and acceptable. It is submitted that on 04.12.2018 the shop of petitioner was found closed and the petitioner is alleged to have committed many irregularities in running the shop. The petitioner in his show cause stated that on account of unprecedented flood, flood water entered into shop of the petitioner. The petitioner with the permission of Block Supply Officer shifted his PDS shop to a new place. It is further submitted that from perusal of the show cause of the petitioner, it would appear that petitioner gave satisfactory reply on all the points mentioned in the show cause and also annexed different documents but the show cause of the petitioner has been summarily rejected on the ground that petitioner did not file any petition before the licensing authority for permission to shift his shop from one place to another. It is also recorded in the order that petitioner obtained thumb impression of left hand of a customer and used the same for many customers. It is submitted that perusal of thumb impression from naked eye would not justify or discern the facts that the same thumb impression has been used for different customers, therefore, the order suffers from illegality.

The learned AC to SC 4 submits that of course the petitioner did not file any petition before the licensing authority for permission to shift his shop from one place to another during the flood period but the petitioner obtained permission from Block Supply Officer and the Sub Divisional Officer has not considered these facts but the petitioner has not exhausted the alternative remedy of appeal and revision.

Having considered the submission of both sides and



on perusal of the impugned order as well as show cause filed on behalf of the petitioner, I find that the Sub Divisional Officer, Hajipur called upon the petitioner to show cause on eight points enumerated in the show cause (Annexure-1). The petitioner filed his detailed show cause (Annexure-2) and gave reply on all the points. From perusal of the order impugned, it transpires that the Sub Divisional Officer simply wrote the show cause of the petitioner and rejected the same in one line that the show cause is not acceptable and satisfactory. The licensing authority, the Sub Divisional Officer, is bound to give reasons for rejecting the show cause of the petitioner. The petitioner categorically stated in his show cause that flood water entered into his PDS shop and he immediately rushed to the local authorities and informed about the situation of the flood water entering into his shop and with the permission of Block Supply Officer, the petitioner shifted his shop from one place to another but the show cause of the petitioner has summarily been rejected on the ground that he did not obtain permission from the licensing authority. In the emergency period such as when flood water enter into shop of a shopkeeper he is required to remove the foodgrains to a safe place preventing further decay of foodgrains and, accordingly, the petitioner took permission of the local authority and shifted his shop.

Taking into consideration the facts aforesaid, I find that show cause of the petitioner has not been considered in its true perspective and the same has summarily been rejected. Therefore, I find that the impugned order suffers from illegality and is not sustainable.

Accordingly, this writ petition is allowed and the impugned order dated 19.06.2019 passed by the Sub Divisional



Officer, Hajipur in Supply Case No. 111/2018 is set aside and the matter is remitted back to the Sub Divisional Officer, Hajipur to consider the show cause of the petitioner afresh and dispose of the matter, in accordance with law, within four months from the date of receipt of this order.

(Prabhat Kumar Jha, J)

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