

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17672 of 2019

Ugan Ram, aged about 44 years, Male, S/o Madhuri Ram, Resident of Rahua
Tulsiahi, Ward No.3, P.S. Bira, Dist.Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna
2. The Collector, Saharsa
3. The Sub-Divisional Officer, Sadar, Saharsa
4. The Block Supply Officer, Kahra, District-Saharsa

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4.

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

28-01-2021

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner has filed the instant writ application for quashing order dated 10.06.2017 passed by the learned Sub Divisional Officer, Sadar, Saharsa, by which the PDS licence of the petitioner was cancelled. The petitioner has further prayed for quashing order dated 29.04.2019 passed by the Collector, Saharsa rejecting the appeal preferred by the petitioner.

3. The case of the petitioner, in brief, is that he was granted a PDS licence bearing Licence No.616 of 2007. He was served with the show cause notice dated 06.04.2017 (Annexure-1) issued under the signature of the Sub Divisional Officer, Sadar, Saharsa stating therein that consequent to an inspection of the petitioner's shop conducted by the Block



Supply Officer, Kahra, District-Saharsa, as per the report dated 06.03.2017, the irregularities, as mentioned in the show cause notice, was found with respect to the shop of the petitioner. The petitioner was asked to file reply as to why the PDS licence no.616 of 2007 be not cancelled.

4. It is submitted by learned counsel for the petitioner that pursuant to the notice, the petitioner submitted his reply within the time fixed giving categorical point-wise reply to the irregularities raised in the show cause notice and also enclosed supporting documents along with his reply.

5. The Sub Divisional Officer, Sadar, Saharsa without considering the specific reply as also the documents enclosed, passed order dated 10.06.2017 cancelling the PDS licence of the petitioner. It is submitted that from perusal of the said order, it would transpire that there is no consideration of the contentions raised by the petitioner in his reply and the petitioner's reply has been brushed aside observing the same to be unsatisfactory.

6. It is submitted that thereafter, the petitioner preferred an appeal against order of cancellation dated 10.06.2017, which was registered as Supply Appeal No.02 of 2017 before the learned Collector, Saharsa. The learned Collector in his order dated 29.04.2019 quoted the contents of the show cause notice and rejected the appeal preferred by the



petitioner. It is submitted that perusal of the order passed in appeal clearly shows non-application of mind by the learned Collector. It is submitted that non-consideration of the averments made in the show cause and absence of reasons in the impugned order as also in the order passed in appeal is a serious lacunae and the orders impugned are not sustainable in law. Learned counsel for the petitioner in support of his contentions relies on a Division Bench judgment of this Court in the case of *M/s Umesh Chandra Dinesh Kumar v. State of Bihar and others* reported in *1999(1) BLJ 548*.

7. Learned counsel for the State submits that the petitioner has an alternative remedy by way of filing a revision before the Divisional Commissioner in terms of Rule 36 of the Bihar Targeted P.D.S.(Control) Order, 2016.

8. In reply, the petitioner in support of his contentions relies on the following judgments/orders of this Court :

- (i) order dated 13.07.2018 passed in C.W.JC. No.2049 of 2017 (Kishun Ram vs. The State of Bihar & Ors.)
- (ii) 1999 (1) BLJ 548 (DB) (M/s. Umesh Chandra Dinesh Kumar vs. The State of Bihar & Ors.)
- (iii) 2013 (2) PLJR 706 (Brahmdeo Rai vs. The State of Bihar & Ors.)
- (iv) 2013 (3) PLJR 249 (Krishna Kumar Srivastava vs. The State of Bihar & Ors.)

9. Having heard learned counsel for the parties and in the facts and circumstances of the case, the Court is of the



view that the order of the licencing authority as well as the order passed in appeal are not sustainable in the eye of law and, as such, both the orders are set aside.

10. The P.D.S. licence no.616 of 2007 of petitioner shall be restored and the respondent authorities shall ensure supply of food-grains and kerosene oil to the petitioner's shop.

11. However, in the facts and circumstances of the case, the respondent no.3 Sub Divisional Officer, Sadar, Saharsa shall be at liberty to proceed against the petitioner in accordance with law from the stage of the reply to show cause notice filed by the petitioner for which the petitioner shall appear before the respondent no.3 (Sub Divisional Officer, Sadar, Saharsa) in his office on 22.02.2021 at 10.30 am.

(Partha Sarthy, J)

Brajesh Kr./-

AFR/NAFR	
CAV DATE	
Uploading Date	01.02.2021
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