

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3461 of 2022

=====

Bhola Singh S/o -Late Yugeshwar Singh R/o-Village-Mohjamma, P.S.-Mahua,
Dist.-Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Revenue Secreary, Govt. of Bihar Patna.
2. The Commissioner, Trihut Division Muzaffarpur.
3. The District Magistrate, Vaishali.
4. The Sub-Division Officer, Mahua, Dist.-Vaishali.
5. The Block Supply Officer, Mahua Dist.-Vaishali.

... .. Respondent/s

=====

Appearance :

For the Petitioner	:	Mr. Narain Singh, Sr. Adv.
For the State	:	Mr. Mukul Prasad

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 02-11-2022

A counter affidavit in this matter has been filed
across the Board.

Let it be kept on record.

Heard Mr. Narain Singh, learned senior advocate for the
petitioner and Mr. Mukul Prasad for the State.

The license of the petitioner was cancelled for not
having distributed the food-grains obtained under P.H.H. Scheme
for full six months; rather the petitioner has been charged with
distributing such food-grains only for the three months. This



charge was saddled on the petitioner on the complaint of some of the targeted beneficiaries attached to his shop.

The show-cause reply of the petitioner indicated that those complaints were made by such beneficiaries who were not attached to the shop of the petitioner but with other Public Distribution Shops. However, the Licensing Authority with a cryptic order, without adverting to his explanation, cancelled his license.

The petitioner approached this Court against such order of cancellation but was directed to approach the appellate authority.

The appellate as well as the revisional orders though reflect some application of mind but, according to the learned counsel for the petitioner, if the original order lacks in material particulars and essentials which would be necessary to constitute a speaking order, the defect cannot be cured in appeal or in revision.

A perusal of the appellate as well as the revisional order indicate that the authorities were only concerned with findings as to whether the petitioner had offered his explanation within time. On the contrary, materials have been brought on record on behalf of the petitioner to demonstrate that most of the beneficiaries have been distributed P.H.H. food-grains for six months and that the



stock and the delivery registers were offered by the petitioner before the Licensing Authority which was deliberately avoided to be taken in consideration.

Be that as it may, such contentions of the petitioner appear to be in the nature of an oath against an oath which cannot be looked into in the present proceedings under Article 226 of the Constitution of India.

Nonetheless, we find that the original order of cancellation of license is non-speaking as it does not advert to the explanation offered by the petitioner. There could be a possibility of complaints having been made against other PDS dealers. It is precisely for this reason that the Courts insist for a reasoned order by the quasi judicial authorities as a reasoned order highlights the materials which weigh with the authority in passing any order and that the grounds urged in favour of the petitioner has been looked into and not brushed aside lightly.

We cannot sustain the original order for it does not reflect any reason for discarding the explanation of the petitioner. Merely reiterating that the charge against a dealer is severe and grave does not make the order speaking. For such reasons, we are constrained to set aside the orders cancelling the license of the



petitioner, the appellate as well as the revisional orders affirming the same.

The matter is remitted to the Licensing Authority for writing out a fresh order in accordance with law.

The petitioner is directed to produce a copy of this order before the Licensing Authority within a period of thirty days. Should he do so within the aforementioned time-frame, the Licensing Authority shall provide the petitioner ample opportunity of explaining his cause and would also permit him to file fresh reply to the charges leveled against him. The Licensing Authority, within a period of sixty days thereafter, shall after adverting to the reply of the petitioner, pass a reasoned order which shall be made available to the petitioner forthwith.

With the aforementioned observation, the petition stands disposed of.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.11.2022
Transmission Date	

