

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3799 of 2022

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Md. Iliyas @ Md. Aliyas, male, aged about 54 years, S/o Shek Zahir Hussain,
R/o Village-Beldari, Ward No. 6, P.O.-Barwat Prasarain, P.S.-Bettiah
Mufassil, District-West Champaran, Bettiah.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Food and Civil Supply,
Government of Bihar, Patna.
2. The Principal Secretary Food and Civil Supply, Government of Bihar, Patna.
3. The Divisional Commissioner, Tirhut, Muzaffarpur, Bihar.
4. The District Magistrate, West Champaran, Bettiah.
5. The District Supply Officer, West Champaran, Bettiah.
6. The Sub-Divisional Officer, Bettiah Sadar, West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Ranjan, Adv.

For the State : Mr. Upendra Pratap Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 23-06-2022

Heard Mr. Alok Ranjan, the learned

Advocate for the petitioner and Mr. Upendra Pratap



Singh, the learned counsel for the State.

2. The license of the petitioner was cancelled, which order has been sustained in appeal as well as in revision.

3. The learned counsel for the petitioner has made a short argument that the notice which was slapped on him is with respect to a stale cause.

4. A look at the notice, contained in Annexure-1 to the writ petition, indicates that for some irregularities detected between the months of October, 1997 to January, 1999, the petitioner was asked to explain his cause by a notice dated 23rd of May, 2006. There is no justification for issuing notice to the petitioner after seven years of the detection of irregularities.

5. Be that as it may, the petitioner chose to respond to the aforesaid notice by giving a detailed reply, which was rejected by a laconic order, without advertng to the explanation given by him for such charge of lapses in the handling of the P.D.S. shop.



6. The notice as well as the order passed by the licensing authority, cancelling the license of the petitioner, are not worthy of being accepted as a legally sustainable notice and order respectively.

7. Mr. Alok Ranjan, the learned Advocate for the petitioner, therefore, contends that in view of the judgment of the Supreme Court in *Institute of Chartered Accountants of India Vs. L.K. Ratna; 1986 (4) SCC 537* in which it has been held that even if the appellate or the revisional decision cannot be faulted for being a non-reasoned order, but if it is against the order of the original/licensing authority, which does not give reasons, the manifest original defect cannot be restituted or cured by the appellate or the revisional authority, the orders impugned cannot be upheld.

8. In the present case, even the notice issued to the petitioner does not appear to be sustainable for the reason that such notice has been served on the petitioner after seven years of the detection of the lapses in handling of the P.D.S. shop.



9. For the aforesaid reasons, we are of the considered view that the orders passed by the appellate as well as the revisional authority are not fit to be sustained in the eyes of law.

10. Thus, we are left with no option but to direct for the restoration of the license of the petitioner, but subject to the caveat that no other person must have been given the license in place of the petitioner to run the P.D.S. shop/agency.

11. The learned Advocate for the petitioner submits that according to his information, nobody has been given the license in the meanwhile as all the beneficiaries attached to the shop of the petitioner were attached to the shop of another licensee and till date, the vacant position has not been fulfilled.

12. Considering the afore-noted submissions, we direct the licensing authority to restore the license of the petitioner and renew it, subject to the petitioner undertaking and completing the formalities for renewal of the license.



13. With the aforesaid observation/direction, the writ petition stands allowed and disposed off accordingly.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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