

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6209 of 2022

Janardan Tiwari, male, aged about 61 years, Son of Late Sri Paramhans Tiwari, resident of Village and P.O.- Mangolapur, P.S.- Jalalpur, District-Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The District Magistrate, Saran at Chapra, District-Saran at Chapra.
4. The District Supply Officer, Saran at Chapra, District-Saran at Chapra.
5. The Sub-Divisional Officer, Sadar Chapra, District-Saran at Chapra.
6. The Block Development Officer, Jalalpur, District-Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. S.B.K. Mangalam, Adv.

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

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 28-07-2022

Heard Mr. S.B.K. Mangalam, the learned

Advocate for the petitioner and Mr. Upendra Pratap

Singh, the learned counsel for the State.



2. The license of the petitioner has been cancelled on the ground of the stock register not being maintained appropriately.

3. It is the contention of the petitioner that from the perusal of the notice itself, it would appear that proceedings have been initiated against him on non-existent set of facts. The first charge in the notice indicates that the beneficiaries were not made available the food-grains under the Prime Minister's scheme. The second charge is that the petitioner, in his capacity as licensee, discriminated between various beneficiaries, but such charge further specifies that there is no specific complaint by any one of the beneficiaries. But if, in future, such charges come up against the petitioner, he would be criminally prosecuted and the authorities would also contemplate cancelling his license. Lastly, it is alleged that the petitioner did not maintain the stock-register in appropriate format.

4. The learned counsel for the petitioner, therefore, submits that there were practically two charges



against the petitioner, namely, not making available food-grains under the Prime Minister's scheme to the beneficiaries and not maintaining the records appropriately.

5. With respect to the aforesaid allegation, it has been submitted that the petitioner responded by intimating that the accusation of not making available the food-grains to the beneficiaries is incorrect as there is no recorded complaint with respect to the aforesaid charge. Secondly, it has been submitted that there is no format available for maintaining such records of various schemes of the Government.

6. However, when the response of the petitioner was being analyzed, the licensing authority found that in whichever format the records were preserved, that reflected certain anomaly which gave an impression that the records were not maintained in correct fashion.

7. The counsel for the petitioner, therefore, submits that this finding constitutes a separate charge



with which the petitioner was never confronted.

8. Thus, it has been submitted that the proceedings against the petitioner is vitiated by *mala fides* and a decision is said to have been taken on a charge which was never made known to the petitioner.

9. There is substance in the aforesaid submission of the learned counsel for the petitioner.

10. For the afore-noted reason, we set-aside the order passed by the licensing authority dated 30th of July, 2020 and remit the matter to him again for serving a fresh notice to the petitioner with distinct charges against him and after eliciting his response, giving him sufficient time, a reasoned order shall be passed after adverting to the response of the petitioner.

11. The entire exercise ought to be completed within a period of ninety (90) days from the date of receipt/production of a copy of this order.

12. Needless to state that any order passed by the licensing authority shall contain reasons in support of the same.



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

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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