

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11821 of 2021

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Dayashankar Prasad Keshari, Son of Siddhnath Prasad Kehari, R/o-Village-
Itarhi, P.O. and P.S. Itarhi, Buxar, Bihar-802123

... .. Petitioner/s

Versus

1. The State of Bihar through the Add. Chief Secretary, Food and Consumer Protection Department Government of Bihar, Patna.
2. The District Magistrate, Buxar.
3. The Sub-Divisional Officer, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Mayuri, Advocate
For the Respondent/s : Mr. Arvind Ujjwal (SC-4)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 10-01-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“(i) For issuance of a direction, order or writ, including a writ in the nature of certiorari to quash the Order Dated 22.12.2020 (Anneuxre-9) passed by the District Magistrate, Buxar whereby the order of the Sub-Divisional Officer, Buxar to cancel the Fair Price Shop License of the petitioner for running the PDS shop in Itarhi, Buxar has been upheld arbitrarily without considering the reply of the petitioner.

(ii) For issuance of a direction, order or writ, including a writ in the nature of certiorari to

quash Memo Number 262 dated 31.05.2019 whereby the Sub-Divisional Officer has cancelled the License Number 02/2016 of the petitioner.

(iii) For issuance of a direction, order or writ, including a writ in the nature of mandamus to direct the Respondent Authority to recall the order of cancellation of license of the petitioner and to restore the resumption of supply of food grains and other commodities as per law.

(iv) For issuance of any other relief/reliefs which it may deem to be fit and proper with the facts and circumstances of the present case.”

Briefly stated the facts of the case is that petitioner who is a PDS dealer was issued a show cause dated 11.1.2019 by the SDO -cum- Licensing Authority, Buxar in which it was alleged that on 7.12.2019, the District Supply Officer had inspected his PDS shop in which several irregularities were reported which was made enclosure in the show cause notice in which, no irregularity was found, however, statement of five beneficiaries were recorded who had alleged that more rate is charged and there is irregularities in weighing the food-grains, who are Lalita Devi, Pushpha Kumari, Tara Devi, Manjhariya Devi and Munia Devi.

In his reply to said show cause, petitioner denied the allegations and stated that the beneficiaries are granted their

quota as per their entitlement and allegation of overpricing and under-weighting is false. He has further stated that the statement recorded of two complainants Manjhariya Devi and Munia Devi are not his consumer and he also enclosed two cash memo which contain quantity and price of ration supplied to beneficiaries as well as their signature. Two affidavits sworn by Lalita Devi and Pushpa Devi were also enclosed with reply to show cause in which they have denied any complaint being made by them to the District Supply Officer and had admitted that they are being given full ration on specified price and they have no complain against the petitioner.

In the impugned order while cancelling the licence admittedly affecting the petitioner's right to livelihood or peoples right to receiving essential supplies of food grains, the Licensing Authority simply records, the allegations against the petitioner but does not render any opinion whatsoever, with regard to its authenticity or correctness, much less, after having verified the same as such the order being bad in law also suffers from the vice of violation of principles of natural justice. It is absolutely cryptic; does not assign any reason; is not verified on the factual matrix.

The Apex Court in case of *Kranti Associates Private*

Limited Vs. Masood Ahmad Khan since reported in 2010(9)

SCC 496, has elaborately dealt in what manner the order is supposed to be passed by quasi judicial authority while exercising its statutory powers.

A quasi judicial authority must record reasons in support of its conclusion, recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial or quasi judicial order. Reason assures that discretion has been exercised by the decision maker on relevant grounds and by discarding extraneous considerations. Reasons facilitate the process of judicial review by superior courts. Reasons in support of decision must be cogent, clear and succinct.

Hence, we quash and set aside the impugned order dated 31.05.2019 passed by S.D.O, Buxar with a direction to the concerned authority to pass a fresh order after affording opportunity of hearing to all concerned, including the present petitioner.

Since the original order passed by the licensing authority has been quashed, as a consequence of which, appellate order is also quashed. Absence of reasons in the original order cannot be compensated by disclosure of reason in the appellate order.

Liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

The petition stands disposed of.

Interlocutory application, if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

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