

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14218 of 2021

=====

Raj Kumar Ram, son of Chandrip Ram, Resident of Village-Sultanpur, P.O. Sutihaar, P.S. and Block-Dariyapur, District-Saran at Chapra. Petitioner/s
Versus

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

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. S. B. K. Manglam, Advocate Mr. Awnish Kumar, Advocate
For the Respondent/s	:	Mr. Arvind Ujjwal (Sc4)

=====

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 : 20-01-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

“(I) For issuance of an appropriate writ in the nature of certiorari for quashing the order dated 23.08.2018 passed by the respondent no.5 and contained in his memo no.411 dated 23.08.2018, whereby and whereunder the respondent no.5 was pleased to cancel the petitioner’s Public Distribution System (hereinafter referred to as P.D.S.) License on account of irregularities alleged against him in running his shop.

(ii) For issuance of an appropriate writ in the nature of certiorari for quashing the order dated 05.11.2019

passed by the respondent no.4 in supply appeal no.32 of 2018 communicated under memo no.530 dated 16.05.2020 issued under the signature of Incharge Officer, Legal Cell, Saran, Chapra, whereby and whereunder the respondent no.4 was pleased to dismiss the appeal filed by the petitioner against the order dated 23.08.2018 passed by the respondent no.5 and thereby he was pleased to affirm the order passed by the respondent no.5.

(iii) For issuance of an appropriate writ in the nature of certiorari for quashing the order dated 16.04.2021 passed by the respondent no.3 in supply revision case No.67 of 2020 whereby and whereunder the learned Revisional Authority, i.e., Divisional Commissioner, Saran Division, Chapra, respondent no.3 was pleased to dismiss the revision application filed by the respondent, challenging the order dated 23.08.2018 passed by the respondent no.5 as also the appellate order dated 05.11.2019 passed by the respondent no.4 in supply appeal case no.32 of 2018.

(iv) For issuance of an appropriate writ in the nature of mandamus, commanding and directing the respondent authorities for restoration of petitioner's P.D.S. license as also for a direction to the respondents to resume the supply of essential commodities to the petitioner's shop for the consumers attached therewith.

(v) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case."

A show cause dated 2.7.18 was issued to the petitioner by the licensing authority in which, it was alleged that on 1.7.18 at 10:00 a.m., his PDS shop was inspected by the Block Supply Officer and inspection report dated 2.7.18 has been submitted

to him in which it has been alleged (i) He is not distributing the ration regularly (ii) He is distributing the ration less than prescribed weight and on higher rate and along with show cause copy of the inspection report was also enclosed and he was directed to file his reply to the show cause within 15 days.

Petitioner submitted his reply on 17.07.2018 controverting both allegations and stated that he distributes the ration in supervision of the Panchayat Level Vigilance Committee and after distribution, entry is made in the distribution register. None of the beneficiaries has made any complaint with respect to less weight and higher rate of ration before the Panchayat Level Vigilance Committee and on being satisfied about prescribed rate and weight, beneficiaries put their signature. Allegations are false and baseless. In support of his defence, he enclosed affidavit of beneficiaries, who admitted that they are being provided ration on prescribed rate and quantity.

While dealing with the reply of show cause, the licensing authority has taken into consideration previous inspection report dated 15.10.2017 which was not the subject matter of present show cause. He has also taken into consideration extraneous materials which were not part of show

cause notice.

The impugned order dated 23.08.2018 passed by respondent no.5, the Sub-Divisional Officer, Sonapur Saran, District-Saran at Chapra is a cryptic and non-speaking order and entails civil consequences as it affects the petitioner's rights.

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.

In view of the submissions made and the grounds mentioned in the petition, the impugned order dated 23.08.2018 passed by respondent no.5, the Sub-Divisional Officer, Sonapur Saran, District-Saran at Chapra cancelling P.D.S. Licence of the

petitioner, is quashed and set aside as well as consequential appellate order dated 05.11.2019 passed by the District Magistrate, Saran at Chapra in supply appeal no.32 of 2018 and Revisional order dated 16.04.2021 passed by the Divisional Commissioner, Saran Division, Chapra in Supply Revision Case No.67 of 2020 are also also set aside with liberty to the petitioner to approach Respondent No. 5 afresh.

Petition is disposed of in the following terms:

(a) The petitioner shall make himself available before the Sub-Divisional Officer, Sonapur Saran, District-Saran at Chapra on 24.02.2022;

(b) On the said date, the entire material shall be supplied to the petitioner;

(c) Within two weeks thereafter, petitioner shall file response, complete in all respects;

(d) Petitioner shall fully cooperate and not take any unnecessary adjournment;

(e) The officer shall pass an order assigning reasons within a period of three months thereafter;

(f) While considering such request, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

(g) Liberty reserved to the petitioner to challenge the order, should the need so arise subsequently.

The petition is disposed of in the aforesaid terms.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2022
Transmission Date	NA