

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15484 of 2021

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Nirbhay Kumar Singh Son of Ram Ekbal Singh Resident of Kotwa, P.O. and
P.S. - Kotwa, District- East Champaran.

... .. Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Food Consumer Protection Department, Government of Bihar, Patna.
2. The Commissioner Tiruhut Division, Muzaffarpur.
3. The Director, Magistrate, East Champaran, Motihari.
4. The S.D.O. Sadar, East Champaran, Motihari.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Sanjay Parasmani, Advocate
For the Respondents : Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 06-05-2022

The petitioner held a licence to run a P.D.S. shop under Gram Panchayat Kotwa in the district of East Champaran, which has been cancelled by the Sub-Divisional Officer-cum-Licensing Authority, Motihari by an order dated 19.09.2016. The petitioner had preferred an appeal before the District Magistrate, Motihari, giving rise to Appeal No.16/2016, which came to be rejected by an order dated 16.11.2018. The petitioner's revision application against the order passed by the appellate authority, registered as Revision Case No. 229/2018, has also been dismissed by an order



dated 19.07.2021 passed by the Divisional Commissioner, Tirhut Division, Muzaffarpur. The said three orders dated 19.09.2016, 16.11.2018 and 19.07.2021 are under challenge in the present writ application.

2. We have heard Mr. Sanjay Parasmani, learned counsel appearing on behalf of the petitioner and Mr. Alok Ranjan, learned A.C. to AAG-5 for the State of Bihar. A counter affidavit has been filed on behalf of the State of Bihar.

3. The facts, which are not in dispute, are that an inspection of the petitioner's shop was conducted by the District Supply Officer on 22.07.2016 when the shop was found closed. The petitioner was put to show cause notice by the licensing authority by a letter issued under Memo No. 313 dated 31.08.2016 asking him to submit his explanation within 24 hours as to why his licence be not cancelled. The licensing authority in the said show cause notice mentioned certain irregularities detected during the course of inspection when the shop was found closed. It also referred to certain allegations made by the consumers relating to irregular delivery of the articles.

4. It is significant to note that by the said notice dated 31.08.2016, the petitioner was specifically directed to appear before the Sub-Divisional Officer with the stock register and the



distribution register of his P.D.S. shop. It is also an admitted fact that the petitioner did not submit his explanation within 24 hours nor did he produce the stock register and the distribution register before the licensing authority as was directed by the said notice dated 31.08.2016.

5. The petitioner admittedly submitted his reply on 09.09.2016, which has been brought on record by way of Annexure-6 to a supplementary affidavit filed on behalf of the petitioner. From the said explanation, it is evident that the petitioner did not produce before the licensing authority the stock register and the distribution register at the time of filing of the said explanation on 09.09.2016. He rather took a plea that any register could be examined by the licensing authority at any point of time.

6. The licensing authority, by the impugned order dated 19.09.2016 has cancelled the petitioner's licence noticing other irregularities including the petitioner's defiance of the direction of the licensing authority to produce the stock register and the distribution register. The petitioner's appeal and revision have been dismissed by the revisional authority after considering the stand taken on behalf of the petitioner dealing with different aspects mentioned in the impugned order passed by the licensing authority.



7. Mr. Sanjay Parasmani, learned counsel for the petitioner has submitted that on the ground of single observation of closure of the shop for a single day, extreme action of cancellation of licence ought not to have been taken. He has argued that the petitioner had explained before the licensing authority the circumstance in which the shop was closed on the date of inspection. He has further submitted that in the impugned order there is reference of written complaints made by ten of the consumers, though the show cause notice did not mention about any such written complaints made by the consumers. He has submitted that no written complaint was ever furnished to the petitioner for developing his defense before the licensing authority against proposed cancellation of license. He has accordingly submitted that the impugned order suffers from violation of principles of natural justice and, therefore, the same requires interference. He has also submitted that the orders passed by the appellate authority and the revisional authority are also unsustainable as they have not considered the issues raised by the petitioner in correct perspective.

8. Mr. Alok Ranjan, learned AC to AAG-5 has in reply submitted that admittedly the petitioner refused to produce the stock register and the distribution register before the licensing



authority despite clear direction in this regard in the show cause notice dated 31.08.2016. He contends that in such view of the matter, the order of the licensing authority cancelling petitioner's license cannot be said to be unjustified. He has further submitted that the appellate authority has taken into account this aspect of the matter in his impugned order dated 16.11.2018 while rejecting the petitioner's appeal.

9. On the basis of what has been asserted in the writ petition and in the counter affidavit filed on behalf of the State of Bihar, it is not at all in dispute that there was clear direction to the petitioner to produce the stock register and the distribution register before the licensing authority, in the show cause notice which was issued to him. In response to the show cause notice containing the aforesaid direction, the petitioner was under statutory obligation to produce the said articles before the licensing authority, which he admittedly failed to do. Though the petitioner was granted only 24 hours time to submit his explanation, he submitted his explanation on 09.09.2016. The licensing authority has, however, not rejected the petitioner's explanation on the ground of belated filing of his explanation, rather the licensing authority has considered the said explanation dated 09.09.2016 in his order dated 19.09.2016, whereby the petitioner's license came to be cancelled.



10. On perusal of the orders passed by the appellate authority and the revisional authority, it can be easily noticed that the same are reasoned and disclosed due application of mind.

11. In such view of the matter, particularly the facts which are admitted, we are not inclined to interfere with the impugned orders. We record, at this juncture, that we have not found any such procedural irregularity in passing of the impugned orders as would have required this Court to interfere in exercise of power under Article 226 of the Constitution in the given facts and circumstances of the case.

12. We accordingly do not find any merit in this application, which is accordingly dismissed.

13. There shall, however, be no order as to costs.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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