

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17908 of 2021

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Bashishtha Narayan Singh @ Bashishtha Prasad Singh

... .. Petitioner

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sharma, Advocate

For the Respondent/s : Mr. Arvind Ujjwal (SC-4)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

4 06-05-2022 The petitioner held a license to run a PDS shop which was cancelled by an order dated 31.01.2017 passed by the Sub-Divisional Officer, Maharajgaj, Siwan-cum-Licensing Authority. The petitioner's appeal against the said order was dismissed by an order dated 19.12.2017 passed by the Collector, Siwan. The petitioner had preferred a revision application before the Divisional Commissioner which came to be dismissed by an order dated 09.10.2019. The aforesaid three orders are under challenge in the present writ application.

Learned counsel appearing on behalf of the petitioner has submitted that before issuance of the impugned order passed by the Licensing Authority, no adequate opportunity was granted to the petitioner to submit his explanation. On the point of delay in filing the present writ application, it has been stated in paragraph-14 that



with the same prayer, as made in the present writ application, the petitioner had filed a writ application before this Court. After filing of the writ petition, certain defects were pointed out by the Registry but the writ petition could not be refiled after removing the defects as the original copy of the writ application itself was lost.

We have perused the impugned order passed by the Licensing Authority from which it appears that on the charge of certain irregularities, including closure of the shop on the date of inspection conducted by the District Supply Officer, a show-cause notice was issued to the petitioner on 21.12.2016, which was received by the petitioner himself. Again when the petitioner did not submit his explanation, another show-cause notice was issued on 27.01.2016 which was received by the petitioner's son. Despite repeated notices issued to the petitioner, the petitioner did not submit his explanation.

In such background, considering the nature of irregularities disclosed in the show-cause notice, the Licensing Authority decided to cancel the petitioner's license by order dated 31.01.2017.

The submission advanced on behalf of the petitioner that the petitioner was not given adequate opportunity of hearing before passing of the impugned order is not tenable in view of concurrent



findings recorded by the Licensing Authority, the Appellate Authority, and the Revisional Authority to the effect that the show-cause notice was served upon the petitioner. There is no averment in the writ petition that the show-cause was not received by the petitioner rather there is a statement in paragraph-5 of the writ petitioner that the petitioner could not appear before the Sub-Divisional Officer, Maharajganj, Siwan, who is the Licensing Authority, because of his absence on account of petitioner's illness and because during the said period he was in Kolkata. It is the petitioner's own case that he was not available in the village where the PDS shop was located rather he was residing in Kolkata. There is no averment that any information regarding the petitioner's absence was ever given to the Competent Authority.

In such view of the matter, we do not find any reason to interfere with the impugned orders exercising equitable discretionary remedy under Article 226 of the Constitution. This application, in our view, has no merit and is accordingly dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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