

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19439 of 2021

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M/s Sanjeet Traders a proprietorship firm having its office at Mahila College Road, Madhubani, through its proprietor Sanjeet Kumar, aged about 45 years (male), Son of Late Gokul Prasad Sah, Resident of Village Ward No. 1, Laheriyaganj, P.O. and P.S. - Madhubani, District - Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna - 800015.
2. The Principal Secretary Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna - 800015
3. The Agriculture Director, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna - 800015.
4. The District Agriculture Officer, Madhubani.
5. The District Agriculture Co-ordinator, Madhubani.
6. The District Magistrate, Madhubani.
7. The Block Agriculture Officer, Rahika.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Suraj Samdarshi, Advocate
For the Respondent/s : Mr.Anant Pd. Singh (S.C.15)

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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 : 03-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing memo no. 2078 dated 08.11.2021 issued by the Respondent District Agriculture Officer,

Madhubani whereby the license no. CFK20041600540-R granted to the petitioner for carrying on wholesale trade of fertiliser has been cancelled.

ii) This Hon'ble Court may adjudicate and hold that memo no. 2078 dated 08.11.2021 is violative of the principles of natural justice and thus bad in the eyes of law since no prior show cause has been issued to the petitioner for breaking of seals before before cancellation of the license.

Iii. This Hon'ble Court may adjudicate and hold that a license issued under the Fertiliser (Control) Order, 1985 for carrying on wholesale trade of fertiliser cannot be cancelled without issuance of any show cause for the same.

iv. This Hon'ble Court may adjudicate and hold that memo no. 2078 dated 08.11.2021 is in violation of clause 31(2) of the Fertiliser (Control) Order 1985 which prescribes an opportunity of being heard prior to passing of final order of suspension, debarment or cancellation of a license.

v) This Hon'ble Court may further adjudicate and hold that the action of the Respondent District Agriculture Officer is a completely arbitrary exercise of authority/power vested in the Respondents.

Learned counsel for the petitioner submits that petitioner is a proprietorship firm engaged in the business of whole sale trade of fertilizers and was granted licence under the

Fertilizer Control Order 1995, which was lastly renewed on 18.04.2019.

Premises of petitioner was inspected on 27.10.2021 on charges of black-marketing of fertilizer and a show cause notice dated 28.10.2021 was issued to the petitioner for cancellation of licence alleging non co-operation during inspection by the District Agriculture Officer, Madhubani, and the licence was suspended.

Petitioner submitted reply to the show cause assigning reasons of he being not present on the date and time of inspection and thereafter again petitioner received a letter dated 30.10.2021, in which it was stated that godown of petitioner was sealed on 30.10.2021 and petitioner was directed to be present on 31.10.2021 for preparation of seizure memo. However, it was contended that godown of petitioner was not sealed.

Thereafter, District Agriculture Officer, vide memo dated 08.11.2021 cancelled the licence of petitioner for allegation that he had broken the seal put on the godown and indulged in black-marketing of the fertilizer.

It is submitted by learned counsel for the petitioner that show cause dated 28.10.2021 for cancellation of the licence on the ground of non cooperation during inspection. However,

licence has been cancelled on the ground that petitioner had broke open the seal of the godown for which no show cause was issued to the petitioner and same being in violation of principles of natural justice and fair play as well as in violation of clause 31(ii) of the Fertilizer Control Order, which contemplates reasonable opportunity of hearing before cancellation of licence.

Against the first show cause notice dated 28.10.2021 with respect to inspection conducted on 27.10.2021 petitioner submitted his detailed explanation vide reply dated 29.10.2021 and same has not been even discussed in the impugned order and licence has been cancelled on different grounds, which even according to department were subsequent to issuance of show cause notice dated 28.10.2020-21 and it was incumbent upon the department to issue show cause for said alleged irregularities committed by petitioner before passing the final order of cancellation.

The impugned order dated 08.11.2021 passed by Respondent No. 4, namely, the District Agriculture Officer, Madhubani has been passed in violation of principles of natural justice as no show cause notice was served for alleged irregularities prior to passing of impugned order which entails civil consequences as it affects the petitioner's rights.

In view of the submissions made and the grounds mentioned in the petition, the impugned order dated 08.11.2021 passed by Respondent No. 4, namely, the District Agriculture Officer, Madhubani cancelling P.D.S. Licence No. CFK20041600540-R of the petitioner, is quashed and set aside, with liberty to the petitioner to approach Respondent No. 4 afresh.

Petition is disposed of in the following terms:

(a) The petitioner shall make himself available before the District Agriculture Officer, Madhubani on **07.03.2022**;

(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)

Rajiv/veena-

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