

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21118 of 2021

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Chandeshwar Rai Son of Jamun Rai, Resident of Village-Parahiya, Pagahia,
Police Station-Saraiya, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Sub-Divisional Officer, Cum Licensing Officer, Muzaffarpur West, Muzaffarpur.
4. The Block Supply Officer, Saraiya, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anand Kumar Ojha, Advocate Mr. Ashok Kumar Karna, 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 THE CHIEF JUSTICE)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

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Date : 14-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-



1. That in the present writ application the Petitioner prays for issuance of writ in the nature of certiorari to quash the order contained in Memo No. 1507 dated 04.10.2019 issued by the Respondent No. 3, Sub Divisional Officer cum Licensing Authority, Muzaffarpur West, Muzaffarpur whereby and where under the Respondent No. 3 had cancelled the Public Distribution System license of the Petitioner without supplying the Enquiry report as well as the alleged complaint made by the consumers and without considering the reply of the petitioner and on the new & different allegations in comparison to Show Cause Notice and thus the action of Sub Divisional Officer cum Licensing Authority, Muzaffarpur West, Muzaffarpur is violative of Principle of natural justice as well as the judgment of this Hon'ble Court passed in C.W.J.C No. 1339/2018 (Bhuvanand Paswan Vs the State of Bihar and others) by which the Hon'ble Court held that non supply of enquiry report vitiates the cancellation order and vide order dated 17.09.2018 passed in L.P.A. No. 1667 of 2013 (Bhawesh Chandra Das Vs the State of Bihar and others) this Hon'ble Court also held that non consideration of reply and non supply of Enquiry Report vitiates the cancellation order and the Petitioner further prays restoration of Public Distribution System license.

After the matter was heard for some time, learned counsel appearing on behalf of the petitioner, under instructions, states that petitioner may be permitted to prefer an appeal against the impugned order before the Appellate Authority.



Permission granted.

Learned counsel for the respondents states that if such an appeal is preferred within a period of four weeks from today, the issue of limitation, if any, shall neither be raised nor allowed to come in the way of adjudication of the appeal on merits.

Statement accepted and taken on record.

As such, petition stands disposed of in the following mutually agreeable terms:-

(a) Petitioner is permitted to prefer an appeal within a period of four weeks from today;

(b) In the event of appeal being preferred within a period of four weeks from today, the issue of limitation shall not come in the way of adjudication of the appeal on merits;

(c) Opportunity shall be granted to the parties to place on record all essential documents and materials, if so required and desired;

(d) Petitioner through learned counsel undertakes to fully cooperate and not take unnecessary adjournment;

(e) The Appellate Authority shall decide the appeal on merits, in compliance of the principles of natural justice;

(f) The Appellate Authority shall pass a reasoned and speaking order, within a period of eight weeks from the date of filing of the appeal;

(g) Copy of the reasoned and speaking order passed by the



Appellate Authority shall be supplied to the parties;

(h) Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(i) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(j) We have not expressed any opinion on merits and all issues are left open;

(k) Liberty reserved to the petitioner to challenge the order, before the appropriate forum, if required and desired.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	17.02.2022
Transmission Date	

