

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.281 of 2022

=====

Shaukat Ali @ Md. Shaukat Ali S/o Late Abdul Halim Resident of Village -
Shahpur Baghauni, P.S. - Tajpur, (Bahin O.P.), District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Collector, Samastipur.
3. The Sub- Divisional Officer, Samastipur.
4. The Block Supply Officer, Tajpur, Samastipur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari
For the Respondent/s : Mr.S. Raza Ahmad (Aag5)

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

3 02-03-2022 Heard Mr. Dhananjaya Nath Tiwary, learned

Advocate for the petitioner and Mr. Alok Ranjan for the

State.

The petitioner has challenged the order dated

04th of October, 2021, contained in Memo No.1239,

passed by the Sub-divisional Officer-cum-Licensing

Authority, Samastipur whereby the licence of the



petitioner has been cancelled.

The learned counsel for the petitioner has furnished reasons for his not responding to the two show-cause notices issued to him. However, without going into the merits of the aforesaid explanation, we find that it would be worthwhile that the petitioner be heard again and a reasoned order be passed.

We do not intend to give any imprimatur on the slackness of the petitioner in responding to the notice for proposed cancellation of licence. We have acceded to the request of the learned counsel for the petitioner by only keeping in mind that asking the petitioner to go before the appellate authority against the aforesaid order of cancellation would leave the appellate authority with nothing on record to decide the appeal.

It has long been decided that an appellate proceeding cannot reconstitute the original proceeding.

Even though we do not find any manifest error in the aforesaid order of cancellation of licence as there



was no reply of the petitioner with respect to the show cause notice but for purposes, which would only be fair and would avoid any further litigation, we direct that in case the petitioner presents a copy of this order before the Licensing Authority within a period of four weeks, it shall be taken up by the Licensing Authority and after affording opportunity to the petitioner to furnish his show cause reply, a reasoned order shall be passed within sixty days thereafter.

We reiterate that we have not expressed any opinion whatsoever on the merits of the case or on the merits of the explanation of the petitioner for not responding to the show cause notice.

Should the petitioner default this time, he would not be entitled to take the plea of principles of natural justice not having been given to him. It is also made clear that the documents including the enquiry report shall be made available to the petitioner for him to effectively reply to the show cause notice.



The petition stands disposed of accordingly.

(Ashutosh Kumar, J.)

(Anjani Kumar Sharan, J.)

Sanjay/-

U			
---	--	--	--

