

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.612 of 2023

Haridwar Ram Son of Late Bhola Ram, Resident of Village- Silari, P.S.-Shiv
Sagar, District- Rohtas ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Bihar, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Magistrate, Rohtas at Sasaram.
4. The Sub-Divisional Officer, Rohtas at Sasaram.
5. The District Supply Officer, Rohtas at Sasaram.
6. The Block Supply Officer, Kargahar, District- Rohtas. ... Respondents

Appearance :

For the Petitioner : M/s Niraj Kumar, Sanchay Srivastava & Saloni
Sinha, Advs.
For the Respondents : Mr.S. Raza Ahmad, AAG V

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

3 19-08-2023 Heard the learned counsel for the parties.

2. The present writ petition has been filed for the following reliefs :

(i) To issue an appropriate order/s, direction/s including a writ preferably in the nature of CERTIORARI for quashing the order dated 22.11.2022 passed in Supply Appeal Case No. 30 of 2022 passed by the Collector-cum-District Magistrate, Rohtas (Sasaram) whereby and whereunder the said appeal preferred by the petitioner has been dismissed on the point of limitation.

(ii) To quash the order dated 14.09.2021 passed by te S.D.O., Sasaram, whereby and whereunder fair price shop license of the petitioner bearing its No. 8 /07 has been cancelled in pursuance of lodging F.I.R. against the petitioner vide Kargahar P.S. Case No. Case No. 86 of 2020 for the offences punishable under sections 186, 269, 270 of I.P.C. read with section 7 of the Essential Commodities Act.

(iii) To direct the respondent No. 4 (Licensing Authority) to restore the fair price shop license of the petitioner bearing its No. 8/07.



(iv) To any other relief/s to which the petitioner may be found entitled in the facts and circumstances of the case.

3. Learned counsel for the petitioner has stated that in spite of the specific order of the Division Bench of this Hon'ble Court wherein this Hon'ble Court has directed the petitioner to challenge the order of cancellation of license before the appellate authority with an application seeking condonation of the delay, the appellate authority without considering the same has passed the order dismissing the appeal filed by the petitioner on the ground of laches. Learned counsel has stated that the impugned order is contrary to the direction of the Hon'ble Court whereby the petitioner was granted liberty to file an appeal with the condon delay petition, but, the same has not been considered on merits and has being deal with in a mechanical manner.

4. Learned counsel appearing for the respondents has stated that the authorities have not passed the order on merits and simply dismissed the case on the question of delay only. The learned counsel has further stated that the order is not in consonance with the order of this Court in present writ petition and prayed this Court to set aside the order and remand the matter back to the appellate authority for consideration afresh.

5. Having regard to the aforementioned facts,



discussed, and also the judgment of this Hon'ble Division Bench of this Court wherein this Court has held as under :

“Considering the fact that the petitioner approached this Court by filing this writ application challenging the order of the Licensing Authority soon after passing of the said order, it is observed that if such appeal is preferred without four weeks from today with an application seeking condonation of delay, the Appellate Authority shall be under the obligation to decide the petitioner's appeal on merits after condoning the delay keeping in mind the fact that the petitioner was pursuing his remedy before this Court by filing the present writ application”.

6. The impugned order of the appellate authority is **set aside** and the matter is remanded back to the appellate authority for passing orders afresh in the main case on merits. The appellate authority is also directed to put the petitioner on notice and give him an opportunity of hearing before passing any order. The entire exercise shall be completed within a period of two months from the date of receipt of this order.

7. With the aforesaid directions, the present writ petition is **disposed off**.

(A. Abhishek Reddy , J)

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