

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1044 of 2023

=====

Nagina Paswan Son of Late Budhu Paswan, Resident of Village- Rajpur Jaunapur, P.S.- Patory (Mohanpur O.P), Block- Mohanpur, Sub Division- Patory, District- Samastipur- 848501 (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Samastipur.
2. The District Magistrate cum Collector, Samastipur.
3. The Principal Secretary, Food and Consumer Protection Department, Govt of Bihar, Patna.
4. The Sub Divisional Magistrate cum Licensing Authority, Samastipur.
5. The Block Supply Officer, Samastipur.
6. The Additional District Magistrate, Supply, Samastipur.
7. The Marketing Officer, PDS, Samastipur.

... .. Respondent/s

=====

Appearance :

For the Petitioner	:	Mr. Apurva Kumar, Adv Mr. Dilip Kumar Roy, Adv.
For the Respondent	:	Mr. U.P. Singh, AC to SC - 4

=====

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 03-04-2023

Learned counsel for the petitioner has submitted that he could not file a reply to the show-cause notice issued by the licensing authority as he was seriously unwell. Medical documents were placed before the appellate authority in support of his averment which were not considered by the appellate authority and solely on the ground that the petitioner did not file his reply to the show-cause, the appeal was rejected and the cancellation order was upheld.

Learned counsel appearing for the State after having



noticed the aforesaid argument, states that the matter may be remanded back to the S.D.O. for deciding afresh after giving a proper opportunity of hearing to the petitioner. Keeping in view, the provisions of the standing order of 2016, it is expected from the S.D.O. to give a fair and proper opportunity to the concerned licensee to defend himself against the show-cause notice. For the said purpose as already held by this Court, a copy of the Inspection Report should also be provided to him and he would be free to defend himself to the said extent also.

In view of the fact that the petitioner has not been given a fair and proper opportunity and that he could not file his reply on being unwell, this Court is satisfied that the orders passed by the appellate authority cannot be sustained.

In view thereof, the order passed by the appellate authority as well as the SDO dated 27.10.2021 and 01.11.2022 are quashed and set aside with liberty to the S.D.O. to proceed afresh by giving a show-cause notice and giving opportunity of hearing to the petitioner by supplying him a copy of the Inspection Report. The decision shall be taken within a period of three months as they expected from the petitioner to cooperate and file his reply within the said period.

It is made clear that during the pendency of the



aforesaid proceedings, the license shall remain suspended.

This writ petition is disposed of.

(Sanjeev Prakash Sharma, J)

Gauravkr/-
Item No. 28

AFR/NAFR	
CAV DATE	
Uploading Date	10.04.2023
Transmission Date	

