

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2841 of 2023

Khushboo Kumari Daughter of Shravan Kumar, Ward 04, Village- Jhitkiya,
Anchal- Gwalpara, Khitkia, Madhepura, Chatra, P.S.- Gwalpara, Bihar-
852115 ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection, Government of Bihar, Patna.
2. Principal Secretary, Food and Consumer Protection, Government of Bihar, Patna.
3. The Divisional Commissioner, Patna.
4. The District Magistrate, Madhepura.
5. The Sub Divisional Officer, Udhakishanganj.
6. The Block Supply Officer, Gwalpara. ... Respondents

Appearance :

For the Petitioner : Mr.Manini Jaiswal, Adv.
For the Respondents : Mr.S. Raza Ahmad (Aag 5)

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

3 11-08-2023

Heard the learned counsel for the parties.

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

reliefs :

“(i) For quashing the order contained in memo no. 4523 dated 27.12.2022 issued under signature of Respondent Sub Divisional Officer, Gwalpara whereby and where under the license no. 43 of 2018 of the petitioner under Public Distribution System has been cancelled in the most arbitrary manner.

(ii) For quashing the notice contained in letter nos. 2321 dated 18.07.2022, 3698 dated 26.10.2022, 3905 dated 15.11.2022 and letter no. 4091 dated 30.11.2022 issued under the signature of respondent Sub Divisional Officer, Udhakishanganj, whereby and where under copy of the inspection report as well as statement of the beneficiaries have not been provided to the petitioner.

(iii) For direction upon the respondent authorities to restore the license no. 43/2018 of the petitioner forthwith.

(iv) Any other order or orders as your Lordships may deem fit and property in the facts and circumstances of the case be granted to the petitioner.”



3. Learned counsel for the petitioner has stated that the impugned order is passed without application of mind or any valid legal reasons. Learned counsel has stated that the principles of natural justice and equity have been violated by the authority concerned and the impugned order passed. That the statements made by some of the beneficiaries have not been provided to the petitioner nor the copy of the enquiry report/opinion of the Block Supply Officer furnished to the petitioner. That the Sub Divisional Officer, Udakishunganj, Madhepura, without verifying the explanations submitted by the petitioner has solely relied on the opinion of the Block Supply Officer, Gwalpara, and passed the impugned order. That the official respondents have tried to improve their case by issuing one show cause notice after another whereas the allegations made in original show cause notice issued to the petitioner are absent in the subsequent show cause notice. That the impugned order is liable to be set aside on the ground that the petitioner was not supplied with the opinion of the Block Supply Officer, the statements made by the beneficiaries and non-application of mind by the Sub Divisional Officer who has passed the impugned order.

4. Per contra, the learned counsel appearing on behalf of the respondents has stated that the present writ petition is liable to be dismissed on the sole ground that the petitioner has an alternative and efficacious remedy of filing an appeal before the District Magistrate, Madhepura, who is the appellate authority. Learned counsel has also



stated that certain irregularities were found by the inspecting authorities and report submitted to the Sub Divisional Officer. The Sub Divisional Officer has issued the show cause notice to the petitioner and based on the explanation submitted by the petitioner the impugned order has been passed. That the explanation submitted by the petitioner is bald denial without substantiating the claim with any concrete evidence. The authority concerned before passing the impugned order has followed the procedure established by law and prayed for dismissal of the present writ petition.

5. A perusal of the impugned order as well as material filed by the petitioner reveals that the petitioner was issued show cause notice pointing out certain irregularities and for which the petitioner has submitted his explanation. However, it is to be noted that neither the enquiry report nor the statements made by the beneficiaries have been furnished to the petitioner along with the show cause notice. Further it is to be seen that the petitioner was issued with three more show causes notices, but, neither the enquiry report, the statements made by the complainant nor the opinion of the Block Supply Officer have been furnished to the petitioner.

6. A perusal of the record shows that the authorities have conducted the enquiry behind the back of the petitioner without putting him on notice nor giving him an opportunity of cross-examining the complainant. The very fact that the petitioner has not been given the enquiry report, the opinion of the Block Supply Officer, nor the



statements made by the beneficiaries along with the show cause notice is itself a ground for setting aside the impugned order as the same is in violation of the principles of natural justice and equity. The authority ought to have furnished the enquiry report, the opinion of the Block Supply Officer and the statements of the beneficiaries to the petitioner so as to enable the petitioner to effectively answer the charges levelled against him.

7. The impugned order is liable to be set aside on these grounds alone. In view of the above mentioned reasons the writ petition is liable to be **allowed** and the same is accordingly allowed by setting aside the order, dated 27.12.2022, passed by the Sub Divisional Officer, Udakishunganj, Madhepura.

8. In case the official respondents want to take any action they are free to do so duly putting the petitioner on notice and supplying him with the copy of the enquiry report, the opinion the Block Supply Officer and also the statements made by the beneficiaries. The Sub Divisional Officer shall give the petitioner an opportunity of submitting his explanation, cross examining the beneficiaries and personal hearing before passing any order.

(A. Abhishek Reddy , J)

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