

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2174 of 2023

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Sudhir Kant Pathak Son of Late Umakant Pathak P.D.S. Dealer, resident of Village- Gauri, Ward No.- 3, Gram Panchayat- Sarauni Madhepura, Block and P.S.- Sonbarsa, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Commissioner, Koshi Division, Saharsa.
3. The District Magistrate-cum-Collector, Saharsa.
4. The Sub- Divisional Officer, Sadar Saharsa, District- Saharsa.
5. The District Supply Officer, Saharsa.
6. The Block Supply Officer, Sonbarsa, District- Saharsa.
7. Pramod Jha, S/o Late Yogendra Jha Resident of Village- Guari, P.S.- Basnahi, Block and Anchal- Sonbarsa Raj, District- Saharsa, (consumer of PDS shop of petitioner).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra
For the Respondent/s : Mr. S. Raza Ahmad (Aag5)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

10 25-09-2023 Heard the learned counsels for the parties.

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

“i) To issue a writ in the nature of certiorari, setting aside the order dated 10.12.2022 passed by the Commissioner, Koshi Division, Saharsa in Supply Revision Case No. 27/2022, preferred by one consumer and beneficiary of petitioner's PDS shop although he has no such locus, whereby and where-under the



Commissioner, Koshi Division, Saharsa, in a most arbitrary and mala fide manner, cancelled the PDS license No.451/2016 of petitioner by way of setting- aside the order dated 31.12.2021 passed by the Collector, Saharsa in Supply Appeal Case No. 02/2021 by which learned Collector, Saharsa, has been pleased to set-aside the order dated 09.02.2021 contained in Memo No.500-2 passed by the Sub-Divisional Officer, Sadar, Saharsa, cancelling the P.D.S. license of the petitioner with immediate effect in an unlawful manner; against the principles of Natural Justice as well as in complete violation of the well- settled laws and judicial pronouncements of this Hon'ble Court as well as Hon'ble Apex Court.

ii) To issue a writ in the nature of certiorari, setting aside the order dated 09.02.2021 contained in Memo No.500-2 passed by the Sub-Divisional Officer, Sadar, Saharsa, cancelling the P.D.S. license of the petitioner in an unlawful manner, against the Principles of Natural Justice as well as in complete violation of the well-settled laws and judicial pronouncements of this Hon'ble Court.

iii) To issue a writ in the nature of mandamus, commanding and directing the Respondent authority concerned to restore the petitioner's P.D.S. licence forthwith which is only source of livelihood of the petitioner.

iv) And/or any other relief or reliefs for which the petitioner is found entitled to in the facts and circumstances of this case.”

3. Learned counsel for the petitioner has stated that the



impugned order passed by the Commissioner, Koshi Division, Saharsa (Respondent No. 2) is without jurisdiction and the same is liable to be set aside. Learned counsel has stated that the authority concerned i.e. the Sub-Divisional Officer Sadar Saharsa, District Saharsa (Respondent No. 4) basing on the enquiry report submitted by the Block Supply Officer, Sonbarsa, District Saharsa (Respondent No. 6) has issued show cause notice to the petitioner and the petitioner has submitted his explanation. Thereafter, the Respondent No. 4 has passed the order cancelling the PDS license of the petitioner. It is further stated that the petitioner aggrieved by the order of cancellation of the license has approached the District Magistrate-cum-Collector, Saharsa (Respondent No. 3) by way of Supply Appeal Case No. 02 of 2021 and the Appellate Authority was pleased to set aside the order of cancellation dated 09.02.2021 vide Memo No. 500-2 passed by the Sub-Divisional Officer, Sadar Saharsa (Respondent No. 04). Thereafter, the respondent no. 7 herein has filed a supply revision before the Commissioner, Koshi Division, Saharsa (Respondent No. 2) challenging the orders of the District Magistrate-cum-Collector passed in Supply Appeal Case No. 02 of 2021 and the said revision was numbered as Supply Revision Case No. 27 of 2022. The Commissioner,



Koshi Division, Saharsa has passed the impugned order on 10.12.2022 setting aside the order of the Collector passed in Supply Appeal Case No. 02 of 2021. Learned counsel for the petitioner has further stated that the Commissioner, Koshi Division, Saharsa ought to have dismissed the revision filed by the respondent No. 7 herein, as he is only a consumer/beneficiary of the petitioner shop and, therefore, he had no locus standi to challenge the order passed by the Collector in Supply Appeal Case No. 02 of 2021. Learned counsel has stated that the consumer/beneficiary cannot be termed as an aggrieved person and it is only the aggrieved person who can file a revision. That the authority concerned without adverting to the above fact has allowed the revision filed by the consumer/respondent No. 07 herein. Learned counsel has relied on the judgment of the Hon'ble High Court of Allahabad 2019 AHC 69056 in support of his case.

4. *Per Contra*, the learned counsel appearing on behalf of the respondent No. 7 has stated that the petitioner who is a PDS dealer has been indulging in many illegal activities and, therefore, based on the complaint submitted by the respondent no. 07, the license of the petitioner was cancelled. Thereafter, the petitioner herein has preferred an appeal before the



Collector, who has allowed the appeal and restored the license of the petitioner. Learned counsel has further stated that the consumer of the petitioner's ration shop who is facing hardships is also an aggrieved party and, therefore, the respondent No. 07 had every right to file the revision before the 2nd respondent herein. Learned counsel has therefore prayed that the writ petition may be dismissed.

5. Admittedly, the only question in the present writ petition is as to whether the respondent No. 7 had any locus to file the supply revision before the 2nd respondent herein against the orders of the Collector passed in Supply Case No. 02 of 2021.

6. In the judgment passed by the Hon'ble Allahabad High Court 2019 in ***Babban Vs. State of U.P. and 4 others*** reported in **2019 SCC Online All 5063** relying on a division bench judgment of the very same Court has held as under:

“Division Bench Judgement of this Court in the case of Dharma Raj Vs. State of U.P. and Others 2010(2) AWC 1878 and another judgement of this Court in the case of Sriram Prasad and Another Vs. State of U.P. and Others 2016 (6) ADJ 122 wherein this Court has held that complainant has no locus standi to challenge the order of



appellate authority as none of his personal statutory rights are affected.”

Further at Para 11, it has been held as under;

“This Court in the case of Dharam Raj (supra) has held that complainant is not an aggrieved person and as such, he has no locus standi to file the writ petition. Paragraph 16 and 17 of aforesaid judgment is extracted herein below:-

“16. The view taken by us that that the petitioner is not a person aggrieved, thus he has no locus standi to file the present writ petition thereby challenging the order dated 16.03.2009 passed by Sub-Divisional Magistrate, Jai Singh Pur, district Sultanpur is also supported by the decision of this Court in the case of Suresh Singh v. Commissioner Moradabad Division, 1993(1) AWC 601, where it was held that in an inquiry under Section 95 (g) of the U.P. Panchayat Raj Act, 1947, the complainant who was Up-Pradhan could be a witness in an inquiry but had no locus standi to approach this Court against the order of the State authorities, for the reasons that none of his personal statutory right are affected.”

7. A perusal of the Bihar Targeted PDS Control Order 2016 does not define the term “consumer”. The Order only speaks of issuance of ration card to eligible applicants and distribution of the food grains to the ration card holders under the scheme of things. In case a license holder violates the



provisions of the Order or does anything in contravention of the Order, the punishment is that of cancellation of the license of the Control Order, 2016 under Rule 32, the person whose license has been cancelled has the remedy of filing an appeal before the District Magistrate and, thereafter, the power of revision is granted to the Divisional Commissioner. However, by no stretch of imagination can it be said that the consumer of a ration shop is an aggrieved party. In case the consumer does not get the necessary rations or if he has any other complaint against the PDS license holder, the only remedy available to him is to file a complaint before the Sub-Divisional Magistrate or any other authorised person, but he cannot be termed as an aggrieved person. The moment a complaint is filed by the consumer, his role come to an end and the authorities are obligated to act on the said complaint. At the most, the complainant may be cited as a witness for giving evidence against the PDS license holder, but he cannot be termed as an aggrieved person. The Respondent No. 7 had no locus to file a Revision against the order of the Appellate Authority. The Divisional Commissioner has lost sight of this rudimentary fact and entertained the revision filed by the Respondent No. 7 which is contrary to the law.



8. Having regard to the above facts and circumstances and also the law laid by the Hon’ble Allahabad High Court, the impugned order is liable to be set aside and accordingly the same is set aside.

9. The present writ petition is accordingly allowed.

(A. Abhishek Reddy, J)

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