

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3370 of 2023

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Shanti Devi, W/o Kailash Sah, Resident of Village- Piprasi, Ward No.- 3,
Parsauni, P.S.- Bagaha, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Collector, West Champaran at Bettiah.
3. The Additional District Magistrate, West Champaran at Bettiah.
4. The Sub-Divisional Officer-cum-Licensing Authority, Bagaha, District- West Champaran.
5. The Block Supply Officer, Piprashi, Bagaha District- West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocates Mr. Dhananjay Nath Tiwari, Advocate
For the State	:	Mr. Anisul Haque, AC to AAG 5

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

8 04-10-2023 Heard the parties.

2. The present writ petition is filed for the following relief(s):-

“For quashing the order dated 17.12.2020 passed by the learned Sub Divisional Officer, Bagaha-cum-Licensing Authority, by which the PDS license of the petitioner being Licence No. 02/2008 has been cancelled and further for quashing the appellate order dated 14.12.2022 passed in Case No. CRM-1143-2021/22 passed by the learned Additional District Magistrate, West Champaran at Bettiah by which the statutory appeal filed on behalf of the



petitioner was dismissed and further be
please to restore the license and supply of
the petitioner”.

3. Learned counsel appearing on behalf of the petitioner states that on the direction of the Sub-Divisional Officer-cum-Licensing Authority (Respondent No. 4), the Block Supply Officer (Respondent No. 5) inspected the shop of the petitioner on 10.08.2020 and on the basis of inspection report, Sub-Divisional Officer-cum-Licensing Authority issued show cause notice vide Memo No. 721 dated 22.08.2020. Thereafter, on 07.10.2010 the shop of the petitioner was again inspected by the Sub-Divisional Officer-cum-Licensing Authority disclosing that the certain irregularity were alleged to be found in the shop of the petitioner and a second show cause notice was issued vide Memo No. 941 dated 12.11.2020 without there being any proposal for cancellation of the license granted to the petitioner. Thereafter, the petitioner has submitted her detailed explanation to the said show cause notice on 18.11.2020 denying all the allegations made against her but the authority concerned has not considered the same and cancelled the license of the petitioner vide Memo No. 991 dated 17.12.2020. Learned counsel for the petitioner has stated that authority concerned except stating that



the explanation submitted by the petitioner is not satisfactory has not given any other reason for passing the impugned order. Learned counsel has further stated that the order is bereft of reasons and the same is liable to be set aside.

3. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner has an alternative and efficacious remedy of filing an appeal before the District Magistrate therefore, prayed this Hon'ble Court to dismiss the present writ petition.

4. A perusal of the show cause notice issued to the petitioner reveals that there is no proposal for taking any action against the petitioner in the show cause notice. The show cause notice does not reveal as to what action authority proposes to take against the petitioner. This Hon'ble Court while dealing with similar issue in CWJC No. 21202 of 2021 along with analogous cases has stated that Rule 27(ii) of the Bihar Targeted PDS (Control) Order, 2016 makes it mandatory for the authorities to mention the show cause notice as to what proposed action is sought to be taken against the license holder. Recently a Full Bench of this Court in CWJC No. 21202 of 2021 along with analogous cases has held that the non



disclosure of the action sought to be taken against the licence holder in the Show Cause Notice is bad and the said Show Cause notice is liable to be set aside on that ground alone. Further, in the order passed by the authority concerned, except stating that the explanation submitted by the petitioner is not satisfactory no other reason has being given. The order is bereft of any reasons.

5. This Court as well as the Apex Court, on number of occasions, have held that any authority or quasi judicial authority have to necessarily give reasoning in the order passed by them. Unless reasons are given in the order, neither the party nor the superior forum or Courts before whom the order is challenged will be in a position to appreciate as to what has weighed with the said authority either for dismissing or allowing the application of the petitioner. Though the quasi judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial orders, yet they are expected to give a reasoned order which should be precise and concisely setting out the reasons for allowing or dismissing the contention/application as the case may be.

**In Assistant Commissioner, Commercial Tax
Department, Works Contract and Leasing, Kota vs. Shukla**



and Brothers, reported in **(2010) 4 SCC, 785**, the Hon'ble

Supreme Court has held as under:

“..... while exercising the power of judicial review on administrative action and more particularly the judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.....

..... A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer Reasons are the soul of orders Non-recording of reasons could lead to dual infirmities; Firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. The orders of the court must reflect what weighed with the court in granting or declining the relief claimed by the applicant."

5. Having regard to the above made submissions, the impugned order is set aside and the matter is remanded back to the Sub-Divisional Authority for issuing a fresh show cause notice in compliance of Rule 27(ii) of the Bihar Targeted PDS (Control) Order, 2016 to the petitioner and giving an



opportunity of filing an explanation to the said show cause notice. Thereafter, the authority concerned is directed to pass a reasoned order duly taking into consideration the explanation submitted by the petitioner. It is needless to observe that before passing any order, the authority concerned is directed to give an opportunity of hearing to the petitioner. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.

6. With the above direction, the present writ petition is allowed.

(A. Abhishek Reddy , J)

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