

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2943 of 2023

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Mahendra Paswan son of Late Dipal Paswan, resident of Village Samar P.S.
Nanpur, District- Sitamarhi ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Food and Consumer Protection Govt. of Bihar, Patna.
 2. The District Magistrate, Sitamarhi.
 3. The Sub- Divisional Officer Pupari Sitamarhi.
 4. The Block Supply Officer Bokhra Shamaria, Sitamarhi ... Respondents
- =====

Appearance :

For the Petitioner : Mr.Nand Kishore Prasad Sinha, Adv.
For the Respondents : Mr.Arvind Ujjwal, SC IV

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

7 11-08-2023 Heard the learned counsel for the parties.

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

“..... for issuance of an appropriate writ order or direction for quashing the order dated 30-11-2022 passed by the Collector, Sitamarhi as contained in Annexure – 9 by which the Supply Appeal No. 68 of 2021 filed by the petitioner has been rejected by confirming the order dated 31-12-2020 passed by the Sub-Divisional Officer, Pupri without assigning any reason in perfunctory manner without considering the case of the petitioner when there is no complaint against the petitioner by any consumer in this regard and, also the order dated 31-12-2020 passed by the Sub-Divisional Officer, Pupri as contained in annexure – 6 whereby and where under the PDS licence No. 5/95 of the petitioner has been cancelled with immediate effect without giving any opportunity of hearing to the petitioner prior to cancellation of the licence and as such the action of the Respondent is not permissible in law and thus vitiated.”

3. Learned counsel for the petitioner has stated that



the Sub Divisional Officer has cancelled the PDS license of the petitioner without any valid reasons or grounds. Learned counsel for the petitioner has stated that the petitioner has preferred an appeal before the Collector, Sitamarhi, and the appellate authority has dismissed the same in the mechanical manner without assigning any reason. Learned counsel has stated that the license of the petitioner was cancelled only on mere allegation made by some person inimical to the petitioner and that no enquiry was conducted by the authority concerned before passing the cancellation order. Learned counsel has stated that the allegations made against the petitioner have not been substantiated by any evidence and merely only the surmises and conjunctures the license granted in favour of the petitioner has been cancelled. Learned counsel has stated that the complainant who has made the complaint against the petitioner has animosity towards the petitioner, as the petitioner has filed a criminal case against the him. That the allegations made agaisnt the petitioner are motivated and made to harass the petitioner. That in the absence of any independent evidence the authority concerned ought not to have taken the allegations made against the petitioner made against the petitioner as true and passed the impugned order. That the appellate authority has



passed the order in a mechanical manner without advertg to the merits of the case and prayed this Hon'ble Court to allow the present writ petition.

4. 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 the revision before the concerned authority and that the present writ petition is liable to be dismissed on that sole ground.

5. Learned counsel has stated that based on the complaint made by some of the villagers the authorities concerned have initiated action, the petitioner was put on notice and an explanation called for. That the official respondents have followed the procedure as contemplated under the law and passed the impugned order merits. That the order passed by the Sub Divisional Officer and the District Magistrate does not warrant any interference by this Hon'ble Court and prayed this Hon'ble Court to dismiss the present writ petition.

6. A perusal of the material filed by the petitioner as well as the respondents in the present case reveals that on receipt of the complaint made by one of the villagers the authorities have cancelled the license issued in favour of the



petitioner.

7. It is pertinent to note that there is animosity between the petitioner and the person who has made the complainant. As seen from the record no enquiry has been conducted there is no proof to show that the allegations made against the petitioner has been substantiated by some independent witnesses nor the complainant has been examined by the authority concerned before passing the impugned order. The authority concerned ought to have rejected the complaint made by the complainant as there are only mere allegations and not substantiated by any proof. The order of the appellate authority is also passed in a mechanical manner without advertng to any of the g round raised in the appeal. More over, it is to be seen that the allegation made against the petitioner that he is supplying less quantity of food grains, charging more for the supplied commodities, that the petitioner is indulging in black marketing was found to be not correct. Mere allegations made by the person inimical to the petitioner without any proof cannot be a ground for cancelling the license issued in favour of the petitioner. Further it is to be noted that the petitioner has filed criminal case against the complainant and the same is pending. The only reason for which the petitioner was found



guilty is that he has not issued the cash memo to one of the customer, can only be termed as minor lapse for which lapses the license cannot be terminated.

8. Having regard to the above, the impugned order is set aside and the writ petition is accordingly **allowed**. The official respondents are directed to ensure supply of the commodities to the petitioner for distribution at the public distribution system shop.

(A. Abhishek Reddy , J)

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