

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19080 of 2016

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Ramakant Mishra S/o Late Baithnath Mishra R/o Village-Macharagawa, P.S.-
Kotwa, District-E.Champaran ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Motihari East Champaran
3. The Sub-Divisional Divisional Magistrate, Sadar Motihari E. Champaran
4. The Block Development Officer, Kotwa Cum Block Supply Officer Kotwa,
District- E. Champaran
5. The Block Development Officer, Kotwa Cum Block Supply Officer Kotwa,
District- E. Champaran ... Respondents

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Appearance :

For the Petitioner : Mr.Dhannjay Kumar No 2, Adv.
For the Respondents : Mr.UP Singh, AC to SC IV

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

2 23-08-2023 Heard the learned counsel for the parties.

2. The present writ petition has been filed for the
following relief(s) :

*(A) An appropriate writ/writs, order/orders,
direction/directions issued to quash the order dated
19.07.2016 passed by respondent no. 2 whereby and
where under he has confirmed the cancellation letter
no. 482 dated 13.12.14 issued by respondent no. 3
(contained annexure 7)*

*(B) Any others relief/reliefs for which petitioner is
found entitled.*

3. Learned counsel for the petitioner has stated that
the petitioner has been granted public distribution system
license after the death of his father (original license holder) on
compassionate ground. That the petitioner was issued the



license under the provisions of the Public Distribution System (Control) Order, 2007, made by the Government of Bihar and the petitioner was issued license bearing No. 87 of 2010. That right from the inception the petitioner has been running the shop without any complaint from any quarter. Learned counsel has stated that the authority has inspected his shop on 03.12.2014 and, thereafter, based on the enquiry report the show cause was issued to the petitioner by the respondent No. 3 vide letter No. 454, dated 08.12.2014, giving him a period of only three days to submit his explanation. Learned counsel has stated that the said notice, dated 08.12.2014, was received on the late hours of 11.12.2014 and the petitioner had no time to give a detailed reply to the said show cause.

4. Counsel has further stated that the petitioner has not been furnished with the copy of the enquiry report nor any material relied upon by the authorities and, therefore, the petitioner could only submit his explanation on 12.12.2014 around 05.00 p.m. Counsel has stated that the Sub Divisional Officer passed the order of cancellation on the very same day without adverting to the explanation submitted by the petitioner.

5. The only reason given in the cancellation order by the Sub Divisional Officer was that the explanation submitted



by the petitioner was not satisfactory. Counsel has stated that the petitioner was not given the copy of the enquiry report, neither the names of the consumers who have made the complaints nor the statements of the consumers were furnished. That as against the order of cancellation the petitioner has preferred an appeal and the appeal was also dismissed in a mechanical manner without adverting to the grounds raised by the petitioner in the appeal. Therefore, prayed this Hon'ble Court to allow the present writ petition and set aside the impugned order.

6. Per contra, the learned counsel appearing on behalf of the respondents has stated that the petitioner was duly put on notice and was given an opportunity of submitting his explanation, thereafter, only the order of cancellation was passed by the Sub Divisional Officer. That the authority concerned has followed the procedure as contemplated under the order and there are no procedural lapses committed by the authorities which requires any interference by this Hon'ble Court. Learned counsel has also stated that the appellate authority has also passed the reasoned order which does not warrant any interference and prayed this Hon'ble Court to dismiss the present writ petition.



7. A perusal of the order passed by the Sub Divisional Officer, i.e., respondent no. 3, shows that the shop of the petitioner was inspected on 03.12.2014 and, thereafter, on the basis of the enquiry report given by the Block Supply Officer, the respondent no. 3 has issued show cause notice to the petitioner.

8. Admittedly, as seen from the show cause notice, the petitioner was not given the copy of the enquiry report, neither the names of the complainants were furnished nor the statements recorded, if any, of the complainant were supplied to the petitioner.

9. This Court in the judgment reported in **2013(3) PLJR, 249 (Krishna Kumar Srivastava Vrs. the State of Bihar & Ors.)** has held as under :

“This Court has repeatedly made it clear that if a show cause notice is issued to a PDS dealer by the licensing authority on the basis of statement of consumers/beneficiaries attached to the shop in respect of non-supply or inadequate supply of food grains or charging higher amount than prescribed, names of such consumers/beneficiaries should be furnished to the dealer and, if any statement has been made on the basis of which any enquiry report has been submitted, copies of such statement and the report should also accompany the show cause. This basic requirement of fair play in action is only for compliance of Principles of Natural Justice. If the show cause notice is vague and does not contain particulars in support of the allegations and is



not accompanied with the relevant materials which may be considered by the licensing authority at the time of passing final orders, the same has to be termed as giving inadequate opportunity to the PDS licence holder.”

10. In **C.W.J.C. No. 19546 of 2019 (Arun Chaudhary Vrs. the State of Bihar & Ors.)** it has been held as follows :

“..... the learned counsel for the petitioner has shown to this court that though the original order of cancellation of license runs in around three pages but the licensing authority has only recounted the grounds raised by the petitioner and has disposed of those grounds in one line that those are unsatisfactory.

What is the reason for the Licensing Authority to hold such grounds to be unsatisfactory has not been stated.

We do not get any idea from such order as to whether the petitioner was entitled to be retained as a licensee or that the order of cancellation of license was correct on the prevalent set of facts.

Since the defect in the original order cannot be restituted in an appeal for the reasons that the petitioner would not know in his capacity as appellant, what to challenge and on what grounds, the provision of appeal becomes rather otiose.”

11. Having regard to the above law laid down by this Hon’ble Court in the above mentioned cases, this Court is constrained to set aside the orders passed by both the appellate



authority as well as the Sub Divisional Officer, respondent no. 3 and remand the matter back to the Sub Divisional Officer, concerned, for passing order afresh duly putting the petitioner on notice and supplying him with the copies of the enquiry report, the names of the complainants and also the statements of the complainant, if any, recorded by the authorities. The petitioner shall be given an opportunity of filing his explanation and also an opportunity of hearing before passing any orders.

12. The entire exercise shall be completed as expeditiously as possible, within a period of three months from the date of receipt of a copy of this order. Any decision taken shall be communicated to the petitioner.

13 This writ petition is **allowed** to the extent indicated above.

(A. Abhishek Reddy , J)

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