

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4306 of 2023

Niwas Mandal Son of Late Basant Mandal, Resident of Village Bari Allalpur,
P.S. Parbatta, District Bhagalpur, Kharik Block, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply and Consumer Protection Department, Govt. of Bihar, Old Secretariat, Patna.
2. The Commissioner, Bhagalpur Division, Bhagalpur.
3. The Collector, Bhagalpur, District Bhagalpur.
4. The District Supply Officer, Kharik, Sub Division Naugachhia, District Bhagalpur.
5. The Sub Divisional Officer, Naugachhia, District Bhagalpur.
6. The Block Supply Officer, Kharik, Sub Division- Naugachhia, District Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Akhilesh Kumar Sinha, Adv.
	:	Mr. Salahuddin Khan, Adv.
For the Respondent/s	:	Mr. Anisul Haque (Aag5)

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

5 27-09-2023 Heard the parties.

2. The present writ petition is filed for the following

relief(s):-

“(i) For quashing the order (Annexure-8) passed dated 29.11.2022 by Divisional Commissioner, Bhagalpur in P.D.S. Revision Case No. 36 of 2022-23 by which revision petition has been rejected. the

(ii) For quashing the order dated 30.06.2022 (Annexure-6) passed by the Collector, Bhagalpur in P.D.S. Appeal Case No. 339 of 2021-22 by which the appeal of the



petitioner has been rejected.

(iii) For quashing the order dated 20.01.2022 (Annexure-5) passed by the Sub Divisional Officer, Naugachhia vide Annexure-5 by which the P.D.S. License No. 21 of 1991 of the petitioner license has been illegally cancelling without considering his show cause reply. The respondents have not provided the enquiry report. Hence the order passed by them is violation of natural justice.

(iv) For issuance of any other order/orders, direction/directions for which the petitioner is entitled under the facts circumstances of the case. and

(v) For issuance of Mandamus commanding and directing the respondent no. 3 and 5 to restore the license to its original position and allow him to run the shop and usual.”

3. Learned counsel appearing on behalf of the petitioner has stated that the authority has not supplied the copy of the enquiry report, the names of the beneficiaries or the statements of the beneficiaries along with the show cause notice and passed the impugned order in a pedantic and mechanical manner. Learned counsel further states that non-supply of the above mentioned documents along with the show cause notice is against the principle of natural justice and equity and the law laid down by this Hon'ble Court in a catena of judgments. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition and set aside the impugned order.



4. The non-supply of the enquiry report along with the show cause notice has not been denied in the counter-affidavit, this Court on various occasions has set aside the order of cancellation passed by the Sub-Divisional Officer on the sole ground that the enquiry report was not furnished to the petitioner along with the show cause notice. Even in this particular case, this Court in CWJC No. 7092 of 2017 has set aside the order of cancellation on the very same ground. However, the same mistake has been committed by the Sub-Divisional Officer and the impugned orders have been passed. The authority cannot be expected to commit the same mistake once the order of cancellation passed by it is set aside and the matter remanded back to it for passing orders afresh. The authority was duty bound to supply the copy of the enquiry report along with the show cause notice before passing any orders. On this ground alone, the order of cancellation dated 20.01.2022 is liable to be set aside. Once it is held that the order of cancellation is bad in law and liable to be set aside, the order passed by the Appellate and Revisional Authority cannot have any legs to stand on their own. Therefore, the impugned order dated 20.01.2022 (Annexure-5), the appellate order dated 30.06.2022 (Annexure-6) as well as the revisional order dated



29.11.2022 (Annexure-8) are hereby set aside and the matter remanded back to the Sub-Divisional Officer, Naugachhia for passing orders afresh. The petitioner shall be supplied with a copy of the enquiry report and given an opportunity of filing his explanation. The Sub-Divisional Officer shall consider the explanation filed by the petitioner and pass a reasoned orders. 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. The petitioner shall be given an opportunity of hearing before passing any orders. Any order passed shall be communicated to the parties.

5. Accordingly, the present writ petition stands allowed.

(A. Abhishek Reddy, J)

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