

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4986 of 2022

M/s Sanjeet Traders a proprietorship firm having its office at Mahila College Road, Madhubani, through its proprietor Sanjeet Kumar, aged about 45 years (male), Son of Late Gokul Prasad Sah, resident of Village Ward No. 1, Laheriyaganj P.O. and P.S.- Madhubani, District – Madhubani

... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
2. The Principal Secretary, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
3. The Agriculture Director, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
4. The Agriculture Director, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
5. The District Agriculture Officer, Madhubani.
6. The District Agriculture Co-ordinator, Madhubani.
7. The District Magistrate, Madhubani.
8. The Block Agriculture Officer, Rahika.

... Respondents

Appearance :

For the Petitioner : Mr.Suraj Samdarshi, Adv.

For the Respondents : Mr.Awanish Nandan Sinha, GP XII

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

4 07-08-2023

Heard the parties.

2. The writ petition is filed for the following reliefs :

“(i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing memo no. 2073 dated 08.11.2021 issued by the Respondent District Agriculture Officer, Madhubani (Annexure 7) whereby the license no. 35N/19-20 granted to the petitioner for the business of sale of seed has been cancelled.

(ii) This Hon’ble Court may adjudicate and hold that memo no. 2070 dated 08.11.2021 is violative of the principles of natural justice and thus bad in the eyes of law since no prior show cause has been issued to the petitioner before cancellation of the license.



(iii) This Hon'ble Court may adjudicate and hold that a license issued under the Seed (Control) Order, 1983 for business of sale of seed cannot be cancelled without issuance of a prior show cause for the same.

(iv) This Hon'ble Court may adjudicate and hold that memo no. 2073 dated 08.11.2021 is in violation of clause 15 of the Seed (Control) Order, 1983 which prescribes an opportunity of being heard prior to passing of final order of suspension or cancellation of a license.

(v) This Hon'ble Court may further adjudicate and hold that the action of the Respondent District Agriculture Officer is a completely arbitrary exercise of authority/power vested in the Respondents.

(vi) To grant any other relief or reliefs for which the petitioner is found entitled in the facts and the circumstances of the case."

3. The learned counsel appearing on behalf of the petitioner has stated that the impugned order is passed without putting the petitioner on notice nor giving him an opportunity of submitting any explanation that the basic principles of natural justice and equity have been violated. Learned counsel for the petitioner has stated that the petitioner was granted license for running a fertilizer shop and also a license was issued to the petitioner for sale of seeds under the Seed (Control) Order, 1983. That the authority concerned on 27.10.2021 has inspected the premises of the petitioner ostensibly on the ground that the petitioner was black marketing the fertilizers. Thereafter, vide



letter, dated 28.10.2021, bearing letter no. 1970, the District Agriculture Officer, Madhubani, has stated that the petitioner has not cooperated during the inspection and sought to cancel the fertilizer license issued in favour of the petitioner. The petitioner has submitted a reply on 29.10.2021 stating that the petitioner was not available on 28.10.2021 and that he had gone to participate in the funeral of his paternal uncle, therefore, the question of he being present at the time of alleged inspection and not cooperated is baseless and false. Thereafter, vide letter no. 1996, dated 30.10.2021, the District Agriculture Officer has stated that the godown of the petitioner which was used for the purpose of stocking fertilizer and seeds was sealed on 30.10.2021 and the petitioner was directed to be present on 31.10.2021 for preparation of the seizure memo. Learned counsel has stated that when the petitioner was not present at the time of inspection the question of non-cooperation by the petitioner does not arise and more over the alleged sealing of the godown is only on paper that as a matter of fact the godown was not sealed by the authority at any point of time. That vide memo no. 2079, dated 08.11.2021, the license of the petitioner issued for the purpose of sale of fertilizer was cancelled alleging that the petitioner had broken the seal put on the godown and



black marketed the fertilizer. The petitioner filed C.W.J.C. No. 19439 of 2021 before this Hon'ble Court challenging the said memo and this Hon'ble Court vide order, dated 03.02.2022, has quashed the cancellation order, dated 08.11.2021. Learned counsel has stated that on the very same set of facts the license of the petitioner for carrying on the business of seeds was cancelled, without giving any show cause notice to the petitioner nor calling for any explanation and, therefore, prayed this Hon'ble Court to set aside the impugned order.

4. Per contra, the learned counsel appearing for the respondents has vehemently opposed the very maintainability of the writ petition and stated that the petitioner has an alternative remedy of filing an appeal before the competent authority. Learned counsel has stated that the petitioner was put on notice before passing the impugned order cancelling the seed license and, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the impugned order as well as the document filed by the petitioner as well as respondents reveal that the impugned order was passed on 08.11.2021 alleging that the petitioner had broken the seal of the godown which was put by the authorities on the date of inspection. Admittedly, in the



explanation filed by the petitioner it is clearly stated that the petitioner was not present at the time of inspection on 28.10.2021 as he was attending the funeral of his paternal uncle. There is nothing on the record to show that the petitioner was put on prior notice calling for any explanation before the impugned order was passed. More over, on the very same set of facts, the petitioner's fertilizer license was cancelled and this Hon'ble Court vide order, dated 03.02.2022, in C.W.J.C. No. 19439 of 2021 has set aside the cancellation order, therefore, the stand taken by the authorities that the cancellation of the seed license issued in favour of the petitioner was done in accordance with the rules and regulations is not correct. Even though the counsel for the respondents has brought the attention of the Court to Annexure 2 to show that the petitioner was put on notice before passing the impugned order, reading of the same shows that the said notice was issued for cancellation of the fertilizer license and not for the seeds license. Therefore, it has to be necessarily held that the cancellation order passed by the authority which is impugned in the present writ petition is passed without putting the petitioner on prior notice and calling for an explanation.

6. Having regard to the earlier order passed by this



Hon'ble Court in respect of the very same petitioner and in respect of the very same set of facts in C.W.J.C. No. 19439 of 2021, dated 03.02.2022, the Court is constrained to allow the present writ petition by setting aside the impugned order. The writ petition is, accordingly, allowed. However, in case the official respondents want to take any action they shall put the petitioner on notice and give him an opportunity of submitting his explanation and also an opportunity of hearing before passing any order. The officer concerned shall pass order duly assigning the reasons for passing such an order and any order passed shall be communicated to the petitioner.

7. With the above directions, the writ petition is **allowed** to the extent indicated above.

(A. Abhishek Reddy , J)

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