

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7713 of 2023

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Sewasant Rai @ Sewasant Ray S/o Jagatnarayan Ray R/o village- Mallikpur,
P.O and P.S- Rustampur, District- Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Food and Civil Supply Government of Bihar, Patna.
2. The Principal Secretary Food and Civil Supply, Government of Bihar, Patna.
3. The Divisional Commissioner, Tirhut, Muzaffarpur, Bihar.
4. The District Magistrate, Vaishali.
5. The District Supply Officer, Vaishali.
6. The Sub-Divisional Officer, Hajipur, District- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Ranjan, Advocate.

For the Respondent/s : Mr. Arvind Ujjwal, SC-4.

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

2 18-09-2023 Head learned counsel for the parties.

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

“(i) For quashing the order passed in PDS Appeal No. 95/21 dated 25.04.2022 issued and passed by The Commissioner, Tirhut, Muzaffarpur, Bihar, whereby and where under the learned Commissioner has dismissed the revision filed on behalf of the petitioner only taking into the consideration the order passed by the appellate authority i.e District Magistrate Vaishali passed in Appeal Case No. 32/2019-20.

(ii) For quashing of the order passed by the District Magistrate Vaishali, whereby and where under the appeal filed on behalf of the petitioner has been dismissed



vide order dated 06.04.2021 passed in Appeal Case No. 32 of 2019-20 in a most arbitrary and illegal manner by unreasoned and cryptic order.

(iii) For quashing of the order passed by the Sub Divisional Officer, Hajipur passed in Supply Case No. 114 of 2018 dated 28.02.2019 as contained in memo no. 121 dated 28.02.2019, whereby and where under the Fair Price Shop of the petitioner under Public Distribution system bearing License no. 71/07 (in place of 28/16) without granting any proper opportunity for filing any reply and without considering the fact that petitioner has sought time for filing reply and also without considering the fact that the copy of inquiry report was never served to the petitioner and hence petitioner was precluded from submitting whole some reply and the PDS license of the petitioner was cancelled by an illegal, arbitrary, cryptic, unreasoned, unexplained order and the same is in violation of principals of Natural Justice and also in contravention of statutory provisions of the act and not sustainable in the eyes of law and the same is fit to be quashed.

(iv) Further for direction to the respondents to restore the license and supply to the Fair Price shop of the petitioner under Public Distribution system bearing License no. 28/16.”

3. Learned counsel appearing on behalf of the petitioner has stated that the licence of the petitioner has been cancelled pursuant to an inspection made by the Sub-Divisional Officer on 04.12.2018. The Sub-Divisional Officer thereafter has issued a show cause notice to the petitioner calling for his explanation on 24.12.2018. Even though the petitioner has filed a representation dated 26.12.2018 seeking time for filing his



explanation, the authorities without considering the said representation has passed the impugned order.

4. Learned counsel has stated that the reasons given in the show cause notice are frivolous and one of the main grounds on which the licence of the petitioner was cancelled was that the petitioner's shop was closed on the date of inspection. Further, the counsel has stated that the enquiry report submitted by the Block Supply Officer was not furnished to the petitioner along with the show cause notice. Even though the petitioner has filed an appeal and revision against the order of cancellation, both the authorities have disposed off the appeal/revision in a mechanical manner without advertng to the grounds raised by the petitioner. Learned counsel prayed for setting aside the impugned orders and remit the matter back to the Sub-Divisional Officer for passing orders afresh duly giving an opportunity to the petitioner to file his explanation to the show cause notice. Learned counsel has relied on the judgement of this Hon'ble Court reported in 2012 (3) PLJR 583 to buttress his contentions.

5. Per contra the learned counsel appearing on behalf of the respondents has fairly stated that though the petitioner has made a representation to the authority for granting more time to



the petitioner for submitting his explanation the same was not considered and the order of cancellation was passed. Learned counsel has stated that an opportunity may be granted to the petitioner to submit his explanation and on submission of the same, the Sub- Divisional Officer may be directed to pass orders afresh strictly in accordance with law.

6. Having regard to the above made submission, the impugned order dated 25.04.2022 passed in revision application numbered as PDS Appeal No. 95 of 2021, the order dated 06.04.2021 passed on Appeal Case No. 32 of 2019-20 and the order dated 28.02.2019 passed in Supply Case No. 114 of 2018 have to be set aside and the same are accordingly set aside. The matter is remanded back to the Sub-Divisional Officer, Hajipur i.e. Respondent No. 6 for passing orders afresh. The Respondent No. 6 shall serve a fresh show cause notice along with the copy of the enquiry report, names of the complainants and statements made, if any, by the said complainants. On receipt of the show cause notice, the petitioner shall submit his explanation within a period of two weeks thereof. The Respondent No. 6 is directed to pass orders duly taking into consideration the explanation submitted by the petitioner as well as the judgement of this Hon'ble Court reported in 2012(3) PLJR 583 within a period of



eight weeks thereof. It is needless to state that before passing any order the petitioner shall be given an opportunity of hearing. Any order passed shall be communicated to the parties.

7. Accordingly, the present writ petition stands allowed.

(A. Abhishek Reddy , J)

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