

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6931 of 2023

Prabhunath Chaudhari S/o Late Baleshwar Chaudhari Resident of Village-
Rampur, P.S.-Laxmanpur, District-Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The District Magistrate, Vaishali.
4. The Sub-Divisional Officer, Mahua, Vaishali.
5. The Block Supply Officer, Mahua, Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Adv.
	:	Mr. Dhananjaya Nath Tiwari, Adv.
	:	Mr. Diksha Kumari, Adv.
	:	Mr. Kumar Rajdeep, Adv.
For the Respondent/s	:	Mr. Bijoy Kumar Sinha, AC to AAG5

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

3 13-10-2023 Heard the learned counsels for the parties.

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

“(i) For issuance of appropriate writ/writs, order/orders, direction in the nature of certiorari quashing the order dated 09.02.2023 passed in PDS Revision Case No. 56/2022 passed by the Learned Commissioner, Tirhut Division, Muzaffarpur whereby and where under he has dismissed the revision petition and confirmed the order dated 26.07.2021 passed by the Learned District Magistrate, Vaishali by which the statutory appeal was



dismissed.

(ii) Further for quashing the order dated 26.07.2021 passed in PDS appeal Case No. 67/2018-19 passed by the District Magistrate, Vaishali whereby and where under he has confirmed the order contained in Memo No. 666/Aa dated 13.12.2017 passed by the Learned S.D.O.-cum-Licensing Authority, Mahua, Vaishali.

(iii) Further for quashing the order contained in Memo No. 666/Aa dated 13.12.2017 passed by the Learned S.D.O. Mahua-cum-Licensing Authority, by which the PDS license of the petitioner being License No. 102/2016 has been cancelled.

(iv) Further for issuance appropriate writ/order/direction in which the petitioner found to be entitled in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner has stated that the show cause notice issued by the Sub-Divisional Officer Memo No. 251 dated 19.05.2017 does not propose the action sought to be taken against the petitioner. That even in the second show cause notice, there is no proposal for cancelling the license of the petitioner but the wording used is that action will be taken as to why action till not be taken against the petitioner. Further, it is stated that the petitioner has submitted his explanation to the said show cause notice duly enclosing the affidavits of the consumers who have purported to



have made a complaint against the petitioner but the Sub-Divisional Officer has not consider the same while passing the impugned order. Learned counsel has stated that aggrieved by the orders of cancellation passed by the Sub-Divisional Officer, the petitioner has preferred statutory appeal and as well as revision before the concerned authorities but they have also dismissed the appeal and revision in a mechanical manner without adverting to the above stated facts. This Court in CWJC No. 2477 of 2019 vide order dated 29.04.2019 has held as under;

“The petitioner submitted his reply along with the affidavit(s) of the consumers but those affidavits were not accepted by the Sub-Divisional Officer, Nimchak Bathani, Gaya saying that those affidavit(s) have been managed. In the opinion of this Court, once the petitioner was able to place on record the affidavit(s) of the consumers, the veracity of the complaint were required to be examined by conducting necessary verification by the Sub-Divisional Officer and only thereupon an independent view of the matter could have been taken. It has not been done in the present case. For these reasons the impugned order is liable to be held bad.”

4. As seen from the record, the officer concerned has not conducted any enquiry to test the veracity of the complaints made by the consumers. Moreover, the officer has not taken into



consideration the affidavits of the consumers submitted by the petitioner. There is no evidence to substantiate the allegations made against the petitioner through independent witness or any consumers, the authorities concerned ought to have examined the consumer and given an opportunity to the petitioner to cross-examine the consumers. However, in this case, even the order of the Appellate as well as the Revisional Authorities is passed in a mechanical manner without adverting to any of the grounds raised by the petitioner in the appeal and revision.

5. Having regard to the above made submissions, this Court is of the opinion that the impugned orders are liable to be set aside and the matter remanded back to the Sub-Divisional Officer concerned for passing orders afresh duly taking into consideration the explanations submitted by the petitioner along with the affidavits of the consumers.

6. Accordingly, the orders are set aside and the writ petition is allowed to the extent indicated above setting aside the orders passed by the Revisional Authority dated 26.07.2021 and Appellate Authority dated 26.07.2021 and that of the Sub-Divisional Officer dated 13.12.2017. The Sub-Divisional Officer concerned shall put the petitioner on notice and duly giving him an opportunity of leading any evidence, the matter



shall be decided on merits in accordance with law. The Sub-Divisional Officer concerned shall endeavor to see that the case is disposed off as expeditiously as possible preferably within a period of ten weeks from the date of receipt of a copy of this order. It is needless to mention that before passing any order, the petitioner shall be given an opportunity of hearing. Any order passed shall be communicated to the parties.

7. With the above direction, the present writ petition stands allowed.

(A. Abhishek Reddy, J)

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