

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7907 of 2023

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M/s Sarswati Khad Bhandar through Ram Narayan Prasad aged about-50 Years, Male, Son of Heera Prasad, Resident of Village-Amara Talab, Police, Station-Sasaram Muffasil, Distirct-Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Agricultural, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The District Agriculture Officer, Rohtas at Sasaram.
4. The Block Agriculture Officer, Block-Sasaram, Rohtas.
5. The Superintendent of Police, Rohtas at Sasaram.
6. The S.H.O (Incharge) Sasaram (Muffasil) Police Station, Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh, Advocate.
For the Respondent/s : Mr. Sarvesh Kr. Singh (AAG-13)

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

3 26-09-2023 Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the
following relief:-

“.....for issuance of an appropriate writ(s), order(s) or direction for quashing of the order dated 13.08.2020 passed in Official Order No. 249 of 2020 by which the Respondent No. 3 has been pleased to cancel the licence of the petitioner with immediate effect being licence No. 17/2021”.

3. Learned counsel appearing on behalf of the
petitioner has stated that the impugned order passed by the



District Agriculture Officer (Respondent No. 3) cancelling the fertilizer licence of the petitioner is liable to be set aside on the sole ground that the petitioner was not put on prior notice before passing the impugned order. Learned counsel has stated that the impugned order is passed on 13.08.2020 whereas the show cause notice has been issued to the petitioner on 14.08.2020. Even though the petitioner has submitted his explanation to the said show cause notice, the same is an empty formality as the order of the cancellation was already passed by the District Agriculture Officer on 13.08.2020. Learned counsel has stated that the impugned order is liable to be set aside on the ground that the same is against the principles of natural justice and equity. Though the petitioner has filed an appeal, the same was not accepted by the District Magistrate, Rohtas at Sasaram (Respondent No. 2). Therefore, the learned counsel has prayed for setting aside the impugned order and allow the present writ petition.

4. Per contra the learned counsel for the respondents has stated that the fertilizer shop of the petition was sealed by the District Agriculture Officer, on finding that fertilizers were being unloaded from a vehicle near the shop of the petitioner without having any valid papers. That the District Agriculture



Officer duly taking into account the facts and circumstances has passed the impugned order. Learned counsel has, therefore, prayed this Court to dismiss the present Writ Petition.

5. Admittedly, in the present case the show cause notice was issued on 14.08.2020 for which the petitioner has also submitted his explanation along with the necessary documents on 21.08.2020. However, the impugned order is passed on 13.08.2020 itself by the Respondent No. 3 herein cancelling the licence of the petitioner. The principles of natural justice and equity demand that if any adverse orders are likely to be passed against a person, the said person should be put on prior notice and given an opportunity of filing his explanation. The authority concerned should pass an order only after putting a person on prior notice and seeking his explanation. These principles of natural justice and equity are inviolable and cannot be dispensed with on this ground alone the impugned order has to be necessarily set aside as the same is in violation of principles of natural justice and equity.

6. Having regard to the above, the impugned order vide Office Order No. 249 of 2020 (Memo No. 1579) dated 13.08.2020 is set aside and the matter is remanded back to the authority concerned for passing a reasoned order duly taking



into account the grounds raised in the explanation to the show cause notice submitted by the petitioner.

7. It is needless to mention that before passing any orders the petitioner shall be put on notice and given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of the copy of this order. Any order passed shall be communicated to the party.

8. Accordingly, the present Writ Petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

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