

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8086 of 2023

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Krishan Prasad Yadav Son of Haro Yadav, Resident of Village - Baksoti, P.S. -
Gobindpur, District – Nawada ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
 2. The Sub Divisional Officer, Rajauli, Nawada.
 3. The Block Supply Officer, Block, Govindpur, Nawada ... Respondents
- =====

Appearance :

For the Petitioner : Mr.Dhananjaya Nath Tiwari, Adv.
For the Respondents : Mr.Arvind Ujjwal, SC IV

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

2 19-09-2023

Heard learned counsel for the parties.

2.The present Writ Petition is filed for the
following relief(s) :

i. For issuance of a writ in the nature of Certiorari for quashing the order dated 14.03.2023 passed by the SDO-cum-Licensing Authority, Rajauli, Nawada whereby and where under the Public Distribution License of the Petitioner bearing License No.19/2020 has been cancelled on totally nonest and erroneous grounds in completely mechanical manner- even without supplying the copy of inspection report dated 17.02.2023 and also without considering the reply filed by the Petitioner.

ii. For holding and declaring the Order dated 14.03.2023 passed by the SDO-cum-Licensing Authority, Rajauli, Nawada liable to be set-aside as same has been passed in violation of principles of Natural Justice, in as much as the Impugned Order has been passed without considering the facts and circumstances of the case.

iii. For issuance of any other relief or relief(s) for which the petitioner is entitled for.



3.Learned counsel for the petitioner has stated that the authority concerned without supplying the enquiry report along with the show cause notice has passed the impugned order. Learned counsel has stated that this Hon'ble Court in C.W.J.C. No. 253 of 2014, dated 11.03.2015, has held that the non-supply of the enquiry report and other material relied by the authorities concerned for passing the orders are bad in law and liable to be set aside. Learned counsel has stated that the non-supply of the enquiry report along with the show cause notice is violative of the principles of natural justice and equity and, therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the Subdivisional Officer for passing order afresh duly supplying the copy of the enquiry report and giving an opportunity of filing his explanation.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the Writ Petition and stated that the petitioner has an alternative and efficacious remedy of filing an appeal before the District Magistrate against the orders of cancellation. That the petitioner may be relegated to the Appellate Authority duly raising all the grounds on which he wants to rely on.



Learned counsel has stated that the present Writ Petition may be dismissed directing the petitioner to approach the Appellate Authority.

5. Admittedly, as seen from the show cause notice and the order impugned, the copy of the enquiry report given by the Block Supply Officer has not been enclosed to the show cause notice. This Court in C.W.J.C. No. 253 of 2014, dated 11.03.2015, has held as under :

“In my opinion the non-supply of the enquiry report conducted by the District Level Committee which is the foundation for issuance of show cause notice placed at Annexure-1 as well as non-supply of names of such of the consumers who had complained against the petitioner as regarding the irregularities in distribution of the food-grains or the kerosene oil has prejudiced the petitioner to file his purposeful reply and in absence thereof, the order impugned in my opinion, are based on no materials.

Though it was strenuously argued by Mr. Pandey that in absence of any response by the petitioner the allegations would be deemed to have been admitted but in my opinion even if the show cause reply was missing, the orders passed by the statutory authorities having civil consequences and resulting in cancellation should reflect application of mind. Unfortunately it is grossly missing inasmuch as neither the order of the Licensing Authority nor the order of the appellate authority deal with the materials which formed the basis to drive home the charges. The orders impugned are indefensible and cannot be upheld.”

6. Having regard to the above, the impugned order



is **set aside** and the matter is remanded back to the Subdivisional Officer for passing orders afresh. That before passing any order the petitioner shall be given a copy of the enquiry report and given an opportunity of filing his explanation. That after receipt of the explanation the authority concerned shall pass a reasoned order duly taking into account the explanation given by the petitioner. It is needless to mention that the petitioner shall be given an opportunity of hearing before passing the order. 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. Any order passed shall be communicated to the party.

7.With the above directions, this Writ Petition is **allowed** to the extent indicated.

(A. Abhishek Reddy , J)

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