

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10476 of 2019

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Krishna Prasad S/o Gopal Prasad Resident of Village- Chhabilapur, P.S.-
Biharsharif, District- Nalanda ... Petitioner

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
 2. The Collector, Nalanda.
 3. The Sub Divisional Officer Biharsharif, Nalanda.
 4. The Block Supply Officer, Biharsharif, Nalanda. ... Respondents
- =====

Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Adv. with
M/s Diksha Kumari, Kumar Rajdeep & Arvind
Kumar, Advs.

For the Respondents : Mr.Md. Anisul Haque, AC to AAG V

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

2 22-12-2023 Heard the learned counsel for the parties.

2. Learned counsel for the petitioner has stated that pursuant to the show cause notice issued by the authority concerned the petitioner has given a detailed explanation to the same. However, the Subdivisional Officer while passing the order of cancellation has not dealt with the said explanation and has passed a cryptic order. The only reason given by the authority concerned for passing the said order is that the explanation submitted by the petitioner is not satisfactory. Learned counsel has stated that even though the petitioner has preferred an appeal, the appellate authority has not considered and decided the appeal in mechanical manner confirming the order of the Subdivisional Officer in cancelling the license of



the petitioner. Learned counsel has, therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the Subdivisional Officer for passing the order afresh duly taking into consideration the explanation submitted by the petitioner.

3. 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 a revision before the Divisional Commissioner under Rule 32(vi) of the Bihar Targeted Public Distribution System (Control) Order, 2016, and prayed for dismissal of the present writ petition.

4. A perusal of the documents filed by the petitioner more particularly the show cause notice, the explanation and the order passed by the Subdivisional Officer reveals that the Subdivisional Officer while passing the order has only stated that the explanation submitted by the petitioner is not satisfactory except the above no other reason has been given by the authority concerned. This Court as well as the Hon'ble Supreme Court in a catena of decisions held that the authority while passing order should give reasons either allowing or rejecting the case of the petitioner unless and until the reasons



are given the higher forum or authorities/Courts will not be in a position to weigh the reasons passing the impugned order.

5. This Court as well as the Apex Court, on number of occasions, have held that any authority/Court/quasi judicial authority have to necessarily give reasoning in the order passed by them. Unless reasoning is given in the order, neither the party nor Courts before whom the order is challenged will be in a position to appreciate as to what has weighed with the said authority either for dismissing or allowing the application of the party. Though the quasi judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial order, yet they are expected to give a reasoned order which should be precise, concisely setting out the reason for allowing or dismissing the contention/application as the case may be.

6. In Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota vs. Shukla and Brothers, reported in **(2010) 4 SCC, 785**, the Hon'ble Supreme Court has held as under:

“..... while exercising the power of judicial review on administrative action and more particularly the judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic essentials. Firstly, a person against whom an order is



required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.....

..... A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer Reasons are the soul of orders Non-recording of reasons could lead to dual infirmities; Firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. The orders of the court must reflect what weighed with the court in granting or declining the relief claimed by the applicant."

7. Having regard to the above, the appellate order as well as the order passed by the Subdivisional Officer is set aside the matter is remanded back to the Subdivisional Officer for passing a reasoned order duly taking into consideration the explanation submitted by the petitioner.

8. The entire exercise shall be completed as expeditiously as possible preferably within a period of 8 weeks from the date of receipt of the copy of this order. It is needless to mention that before passing any order the petitioner shall be granted an opportunity of hearing and adduce any evidence, if necessary.



9. With the above directions, the writ petition stands
disposed off.

(A. Abhishek Reddy , J)

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