

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8398 of 2023

Ashok Kumar Rishi S/o Sikandra Rishi, Residence of Village - Moglaha,
Pothisya Rampur P.S. - K.Nagar, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna.
2. The Block Supply Officer, K.Nagar, Purnea.
3. The Sub-Divisional Magistrate, Sadar, Purnea.
4. The District Magistrate, Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar, Adv.
For the Respondent/s : Mr. Arvind Ujjwal (Sc 4)

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

4 12-10-2023 This writ petition has been filed for the following
reliefs:-

*"That the writ application is being
filed for issuance of an appropriate writ/writs,
order/orders in the nature of mandamus to the
Respondents authority director to take proper
step regarding to restored the Public
Distribution System (PDS), license which was
cancelled by Respondent No.-3 and also set
aside the order dated 09/02/2021 passed in
supply Appeal case no. 60 of 2021 by the
learned counsel of Collector, Purnea."*

Learned counsel appearing on behalf of the petitioner
has stated that the District Magistrate while dealing with the
Supply Appeal Case No. 60 of 2021 has not passed the orders



on merit but dismissed the appeal solely on the ground that the counsel for the petitioner was absent on that day. Learned counsel has stated that the petitioner cannot be punished for the absence of the counsel on a single day and, therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the Appellate Authority for passing orders afresh duly giving an opportunity of hearing to the petitioner and pass a reasoned order on merits.

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, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

A perusal of the order passed by the Appellate Authority vide order dated 09.02.2021 in Supply Appeal Case No. 60 of 2021 reveals that the authority has dismissed the case solely on the ground that the counsel for the petitioner was not present on the said date. Except the above reasons, no other reason has been given by the authority. This Court on a number



of occasions has held that even where the counsel does not appear, the Appellate Authority/ Revisional Authority are expected to pass orders on merits and should not dismiss the case on the ground of non-appearance of the counsel.

Having regard to the above, the impugned order dated 09.02.2021 passed in Supply Case No. 60 of 2021 is set aside and the matter is remanded back to the Appellate Authority for passing orders afresh. 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. In the needless to mention that before passing any order, the petitioner shall be put on notice and given an opportunity of hearing. Any order passed shall be communicated to the party.

With the above directions, the writ petition stands disposed of.

(A. Abhishek Reddy , J)

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