

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8538 of 2023

=====

Jai Prakash Yadav, S/o Shivnandan Yadav, Resident of Ward No. - 6, Saidpur,
P.S. Mansi, District - Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The Collector-cum-District Magistrate, Khagaria.
3. The Sub Divisional Officer-cum-Licensing authority, Khagaria, District-Khagaria.
4. The Block Supply Officer, Mansi, District - Khagaria.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Vijay Anand, Adv
For the Respondent/s : Mr. S. Raza Ahmad (AAG 5)

=====

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

Date : 21-09-2023

Heard learned counsel for the parties.

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

“For quashing the order contained in memo no. 24 dated 16.01.2010 passed by the learned S.D.O.-cum-Licensing Authority, Khagaria by which he was pleased to cancel the license no. 25M/2007 and also for quashing the order dated 13.06.2017 passed by the learned Collector-cum-District Magistrate, Khagaria by which he was pleased to dismiss the statutory appeal being Supply Appeal No. 34/2013-14/23/2010 and further be pleased to



restore the license and supply of the petitioner.”

3. Learned counsel appearing on behalf of the petitioner has stated that Block Supply Officer, Mansi inspected the PDS shop of the petitioner on 30.12.2009 and submitted a report to the Sub-Divisional Officer. The Sub-Divisional Officer on the basis of said inspection report issued show cause notice to the petitioner vide Memo No. 844 dated 31.12.2009. The petitioner after receipt of show cause notice filed his reply denying the allegations made against him. Learned counsel further states that the licensing authority without considering the show cause cancelled the license of the petitioner vide Memo No. 24 dated 16.01.2010. Learned counsel further states that petitioner filed an appeal numbered as Supply Appeal No. 34/2013-14/23/2010 before the Collector-cum-District Magistrate, Khagaria against the order of Licensing Authority. But the appellate authority has dismissed the appeal on the ground that no paper was enclosed with the memo of the appeal. Learned counsel has stated that copy of the inspection report was not supplied to the petitioner



along with the Show Cause Notice. The counsel has further stated that the appellate authority without looking into the said aspect, has passed the order in mechanical manner. Even though the petitioner has raised the above mentioned specific ground in the appeal, the appellate authority has not dealt with the same and dismissed the appeal filed by the petitioner. Therefore, prayed this Court to allow the present writ petitioner.

4. Per contra, learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present 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** against the impugned order and therefore, the petitioner may be relegated to the revisional authority.

5. Having regard to the above made submissions, without going into the merits or demerits of the case the writ petition is disposed off directing the petitioner to approach the Divisional Commissioner by filing a statutory



revision and raise all grounds before the Divisional Commissioner within a period of four weeks from the date of receipt of the copy of this order. On such revision being filed, the Divisional Commissioner shall pass orders strictly in accordance with law duly taking into consideration the grounds raised by the petitioner.

6. It is needless to mention that before passing any order the petitioner shall be put on notice and given an opportunity of hearing. The entire exercise shall be completed within a period of six weeks from the date of receipt of the Revision. Any order passed shall be communicated to the party.

7. With the above directions, the present writ petition stands disposed off.

(A. Abhishek Reddy , J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.09.2023.
Transmission Date	

