

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19270 of 2018

=====

Ramchandra Prasad Yadav S/o Late Kailu Yadav, resident of Village- Piprahi,
P.S.- Laukahi, District- Madhubani ... Petitioner

Versus

1. The State Of Bihar
2. The District Magistrate, Madhubani.
3. The Sub Divisional Officer, Phulparas, District- Madhubani.
4. The District Supply Officer, Madhubani.
5. The Block Supply Officer, Block- Laukahi, District- Madhubani.

... Respondents

=====

Appearance :

For the Petitioner : Mr.Lakshmindra Kumar Yadav, Adv.
For the Respondents : Mr.S. Raza Ahmad, AAG V

=====

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

3 17-08-2023 Heard the learned counsel for the parties.

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

(i) For issuance of an appropriate order, direction or writ in the nature of certiorari for quashing order dt. 13.04.2018 passed in Supply Case No. 51/2016-17 (Annexure 11) by the District Magistrate, Madhubani whereby and whereunder the appeal preferred by the petitioner against memo no. 279 dt. 13.10.2016, passed by Sub Divisional Officer, Phulparas has been dismissed.

(ii) For issuance of an appropriate order, direction or writ in the nature of certiorari for quashing memo no. 279 dated 13.10.2016 (Annexure 2) passed in License Cancellation Case No. 06/2016 passed by Sub Divisional Officer, Phulparas, District Madhubani whereby and whereunder Public Distribution System (PDS) License No. 68/2007 relating to Gram Panchayat Jhahuri, Block – Laukahi, District Madhubani has been cancelled.

(iii) For further direction to concerned respondents to restore the Public Distribution System (PDS)



License No. 68/2007 of the petitioner relating to Gram Panchayat Jhahuri Block – Laukahi, District Madhubani and further for direction to concerned authority to start distribution of Public Distribution System (PDS) shop of the petitioner.

(iv) For any other relief or reliefs for which the petitioner may be found entitled in the facts and circumstances of the case.

3. Learned counsel for the petitioner has stated that the petitioner has been granted public distribution system license after the death of his father (original license holder) on compassionate ground. That the petitioner was issued the license under the provisions of the Public Distribution System (Control) Order, 2007, made by the Government of Bihar and the petitioner was issued license bearing no. 68 of 2007. That right from the inception the petitioner has been running the shop without any complaint from any quarter. Learned counsel has stated that the authority has inspected his shop on 05.01.2016 and, thereafter, based on the enquiry report the show cause notice was issued to the petitioner by the respondent no. 3 vide Memo No. 36, dated 27.01.2016.

4. Counsel has stated that the petitioner has not been furnished with the copy of the enquiry report nor any material relied upon by the authorities and, therefore, the petitioner could only submit his explanation based on the show cause notice.



The counsel has further stated that the Sub Divisional Officer has passed the order of cancellation without adverting to the explanation submitted by the petitioner.

5. Learned counsel has stated that the only reason given in the cancellation order passed by the Sub Divisional Officer was that the explanation submitted by the petitioner was not satisfactory. Further, the petitioner was not given the copy of the enquiry report, the names of the consumers who have made the complaints nor the complaints, if any, given by the consumers were given. That as against the order of cancellation the petitioner has preferred a statutory appeal and the same was also dismissed in a mechanical manner without adverting to the grounds raised by the petitioner in the appeal.

6. Per contra, the learned counsel appearing on behalf of the respondents has stated that the petitioner was duly put on notice and given an opportunity of submitting his explanation and, thereafter, the order of cancellation was passed by the Sub Divisional Officer. That the principles of natural justice and equity have been followed and the procedure contemplated under the law. That no procedural lapses was committed by the authorities and the orders were passed in consonance with the provision of the Act and the same does not require any



interference by this Hon'ble Court. Learned counsel has also stated that the appellate authority has passed the reasoned order and prayed this Hon'ble Court to dismiss the present writ petition.

7. A perusal of the order passed by the Sub Divisional Officer, i.e., respondent No. 3, shows that the shop of the petitioner was inspected on 05.01.2016 and, thereafter, on the basis of the report of the Block Supply Officer, the respondent No. 3 has issued show cause to the petitioner.

8. Admittedly, as seen from the show cause notice, the petitioner was neither given the copy of the enquiry report, nor furnished the names of the complainants or the statements of the consumers, if any, were supplied to the petitioner.

9. This Court in the judgment reported in **2013(3) PLJR, 249 (Krishna Kumar Srivastava Vrs. the State of Bihar & Ors.)** has held as under :

“This Court has repeatedly made it clear that if a show cause notice is issued to a PDS dealer by the licensing authority on the basis of statement of consumers/beneficiaries attached to the shop in respect of non-supply or inadequate supply of food grains or charging higher amount than prescribed, names of such consumers/beneficiaries should be furnished to the dealer and, if any statement has been made on the basis of which any enquiry report has been submitted, copies of such statement and the report should also accompany the show cause. This



basic requirement of fair play in action is only for compliance of Principles of Natural Justice. If the show cause notice is vague and does not contain particulars in support of the allegations and is not accompanied with the relevant materials which may be considered by the licensing authority at the time of passing final orders, the same has to be termed as giving inadequate opportunity to the PDS licence holder.”

10. In **C.W.J.C. No. 19546 of 2019 (Arun Chaudhary Vrs. the State of Bihar & Ors.)** it has been held as follows :

“..... the learned counsel for the petitioner has shown to this court that though the original order of cancellation of license runs in around three pages but the licensing authority has only recounted the grounds raised by the petitioner and has disposed of those grounds in one line that those are unsatisfactory.

What is the reason for the Licensing Authority to hold such grounds to be unsatisfactory has not been stated.

We do not get any idea from such order as to whether the petitioner was entitled to be retained as a licensee or that the order of cancellation of license was correct on the prevalent set of facts.

Since the defect in the original order cannot be restituted in an appeal for the reasons that the petitioner would not know in his capacity as appellant, what to challenge and on what grounds, the provision of appeal becomes rather otiose.”

11. Having regard to the law laid down by this



Hon'ble Court in the above mentioned cases, this Court is constrained to set aside the orders passed by the appellate authority, dated 13.04.2018 as well as the Sub Divisional Officer, dated 13.10.2016, and remand the matter back to the Sub Divisional Officer, respondent No. 3 for passing order afresh. The petitioner shall be put on notice, duly supplying him with the copies of the enquiry report, the names of the complainants and also the stateemnts, if any, recorded by the authorities. The petitioner shall be given an opportunity of filing his explanation and hearing before any orders are passed

12. The entire exercise shall be completed as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. Any orders passed shall be communicated to the petitioner.

13 This writ petition is allowed to the extent indicated above.

(A. Abhishek Reddy , J)

Shamshad/-

U			
---	--	--	--

