

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8292 of 2023

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Ashutosh Kumar Son of Shyam Narayan Rai Resident of Ward No. 03,
Village- Keshopurpura, P.S.- Pupri, District- Sitamarhi ... Petitioner
Versus

1. The State of Bihar through Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Sitamarhi.
3. The District Supply Officer, Pupri, Sitamarhi.
4. The S.D.O., Pupri, Sitamarhi. ... Respondents

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Appearance :

For the Petitioner : Mr.Vijay Anand, Adv.
For the Respondents : Mr.S. Raza Ahmad, AAG V

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

2 20-09-2023 Heard learned counsel for the parties.

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

“..... for setting aside the order dated 12.04.2003 passed by Learned S.D.O., Pupri, Sitamarhi, fully contained in Memo No. 135 whereby and whereunder the license granted to the petitioner for carried out the business of a Public Distribution shop in the panchayat Baura, Bajitpur, Block Pupri, within the District Sitamarhi is cancelled.”

3. Learned counsel for the petitioner has stated that the impugned order is liable to be set aside on the sole ground that the same is in violation of the Bihar Targeted Public Distribution System (Control) Order, 2016. Learned counsel has stated that the petitioner has submitted his explanation to the show cause notice on 16.11.2022 (Annexure 3). The



authority concerned without adverting to the said explanation has passed an order in a mechanical manner. Learned counsel has stated that the authority has passed the order stating that the petitioner has not submitted any explanation to the show cause notice, which is factually wrong. Learned counsel has stated that the explanation submitted by the petitioner was on the file of the Subdivisional Officer by the time the impugned order passed, therefore, the passing of the impugned order without adverting to explanation submitted by the petitioner is in violation of the principles of natural justice and equity and is liable to be set aside. Learned counsel has prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authority concerned for passing orders afresh.

4. Per contra, the 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 an appeal before the District Magistrate. Learned counsel has stated that the petitioner may be directed to approach the Appellate Authority ventilating his grievance and prayed for dismissing the present Writ Petition.

5. A perusal of the documents filed by the petitioner clearly reveal that pursuant to the show cause notice issued to



the petitioner, the petitioner has submitted his explanation on 16.11.2022, however, the Subdivisional Officer while passing the order of cancellation, dated 12.04.2023, has not adverted to the explanation submitted by the petitioner and has stated that the petitioner has not filed any explanation to the show cause notice. The said stand taken by the authorities is contrary to the record. The perusal of the explanation submitted by the petitioner shows that there is endorsement by the authorities on the explanation that they have received it on 16.11.2022. Therefore, non-consideration of the explanation by the authority while passing the order of cancellation is not only contrary to the record, but, opposed the principles of natural justice and equity.

6. Having regard to the above, the impugned order, dated 12.04.2023, is set aside and the matter remanded back to the authority concerned for passing orders afresh duly taking into consideration the explanation submitted by the petitioner.

7. It is needless to mention that before passing any orders, the petitioner shall be put on notice and given an opportunity of hearing. 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 petitioner.



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

(A. Abhishek Reddy , J)

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