

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13487 of 2018

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Anil Kumar Singh Son of Gauri Shankar Singh, Resident of Village-Udant
Ray Ka Bangra, P.S.- Manjha, District- Gopalganj ... Petitioner
Versus

1. The State Of Bihar
 2. The District Magistrate, Gopalganj.
 3. The Sub-Divisional Officer, Gopalganj.
 4. The Block Supply Officer-Cum-Marketing Officer, Manjha, Block, District-
Gopalganj. ... Respondents
- =====

Appearance :

For the Petitioner : M/s Ranjan Kumar Srivastava & Shashwat
Srivastava, Advs.
For the Respondents : Mr.S.Raza Ahmad, AAG V

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

5 29-08-2023 Heard the learned counsel for the parties.

2. The present writ petition has been filed for quashing the order, dated 26.04.2008, passed by the Respondent No. 3, i.e., the Sub Divisional Officer, Gopalganj, whereby the license of the petitioner bearing No. 69 of 2016 has been cancelled.

3. Learned counsel for the petitioner has stated that the authority concerned, without taking into consideration the explanation submitted by the petitioner to the show cause notice has passed a cryptic order in a mechanical manner. Learned counsel has stated that the petitioner was not provided with the enquiry report along with the show cause notice, dated 21.03.2018. That the petitioner has been issued a license in the



year 1985 and, thereafter, the same was renewed in the year 2016. That till date there are no complaints by any consumers and the enquiry which was conducted behind the back of the petitioner appears to be motivated. Even though the petitioner has annexed the required documents along with the explanation to the show cause, the same were not considered by the Sub Divisional Officer. The impugned order is passed in a mechanical manner without adverting to the explanation submitted by the petitioner and also the documents annexed thereto, therefore, prays this Hon'ble Court to allow the present writ petition by setting aside the impugned order.

4. Per contra, the learned counsel appearing on behalf of the respondents has stated that the present writ petition is not maintainable as the petitioner has an alternative and effective remedy of filing a statutory appeal before the District Magistrate. Learned counsel has stated that the petitioner has straightaway come to the High Court by filing the present writ petition without availing the statutory remedy of appeal. Learned counsel has stated that the petitioner may be relegated to the appellate Court for redressal of his grievance by filing an appeal and the same shall be considered on its own merit and necessary orders passed. Learned counsel has prayed for



dismissal of the writ petition.

5. A perusal of the documents filed by the petitioner more particularly the show cause notice issued to the petitioner and also the order passed by the Sub Divisional Officer, dated 26.04.2018, shows that the petitioner was not furnished with the copy of the enquiry report. The authority, concerned, has also not taken into consideration the documents submitted by the petitioner along with the show cause explanation.

6. Even though the counsel for the respondents has stated that the petitioner was furnished the copy of the enquiry report. The perusal of the show cause notice does not reveal that the same was served on the petitioner. More over, at paragraph 8 of the writ petition, the petitioner has taken specific stand that the enquiry report was not furnished to him and in the counter affidavit filed by the respondents there is no denial to the statement made by the petitioner.

7. 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.”

8. In LPA No. 499 of 2018 this Court held as follows :

“..... the impugned action is not sustainable inasmuch as the petitioner gave a detailed explanation and justification against the proposed action, as is contained in Annexure-6, and in a cryptic manner, without considering the explanation and defence of the petitioner, his licence has been cancelled. This amounts to violation of principles of natural justice inasmuch as the non-application of mind and passing an order adverse to or prejudice to a person without considering his defence is also a facet and the requirement of principles of natural justice and this having not been followed.....”

9. Having regard to the above mentioned facts and circumstances, this Court is constrained to **set aside** the order of the Sub Divisional Officer, dated 26.04.2018, and remand the matter back for fresh consideration.

10. The Sub Divisional Officer before passing the order shall supply the petitioner the copy of the enquiry report,



statements, if any, made by the consumers and will be given an opportunity to submit his explanation. The authority while passing the order shall take into consideration the explanation submitted by the petitioner and also the documents filed along with the explanation and pass a reasoned order. It is needless to mention that before passing any order, the petitioner shall be put on notice and given an opportunity of hearing.

11. The entire exercise shall be completed as expeditiously as possible, preferably within a period of eight weeks from the date of submission of the explanation by the petitioner. Any orders passed shall be communicated to the petitioner.

12. With the above directions, this writ petition is **allowed** to the extent indicated above.

(A. Abhishek Reddy , J)

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