

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1239 of 2021

M/s Bharat Agro Chem, situated in D/3, Phase III, Industrial Area, Fatuha,
District- Patna, having office at E, 17, Peoples Co-operative Colony,
Kankarbagh, Patna, through, through one of its partner namely Sanjit Kumar
Singh, Aged about 52 years, Son of Late Rajeshwar Prasad Singh, Resident of
E/17, P.C. Colony, Near Old Water Tank, Police Station- Kankarbagh,
Sampatchak, Patna, District- Patna ... Petitioner

Versus

1. The State of Bihar through the Secretary, Agriculture Department,
Government of Bihar, Patna.
2. The Secretary, Agriculture Department, Government of Bihar, Patna.
3. The Secretary-cum-Appellate Authority, Agriculture Department,
Government of Bihar, Patna.
4. The Agriculture Director, Agriculture Department, Government of Bihar,
Patna.
5. The Joint Director, Agriculture Department, Government of Bihar, Patna.
6. The Deputy Director (Plant Protection), Patna Division, Agriculture
Department, Government of Bihar, Patna.
7. The Assistant Director (Plant Protection), Agriculture Department,
Government of Bihar, Patna. ... Respondents

Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Adv. with
M/s Sanjeet Kumar & Kumar Rajdeep, Advs.
For the Respondents : Mr. Piyush Lall, AC to AG

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

6 06-09-2023

Heard learned counsel for the parties.

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

*“..... for quashing of the order passed by the
Secretary, Agriculture Department, Government of
Bihar, Patna contained in memo no. 3809 dated
25.09.2020 whereby and whereunder the appeal
preferred by the petitioner against the order of the
cancellation of Insecticide License No. 19 dated
25.10.2007 by the Director, Agriculture
Department, Government of Bihar, has been
rejected without appreciating the facts as well as
relevant law involved in it.”*



3. Learned counsel for the petitioner has stated that the authority concerned has issued show cause notice, dated 05.12.2019, vide Letter No. 5885, seeking to cancel the license of the petitioner based on the inspection done on 05.12.2019. Though the petitioner has submitted his explanation on 23.12.2019, the authority without advertng to the contents of the explanation submitted by the petitioner has cancelled the license on 01.06.2020 vide Memo No. 2296. Thereafter, the petitioner has preferred an appeal before the statutory authority, but, the Appellate Authority has also dismissed the appeal filed by the petitioner vide order, dated 25.09.2020 in Memo No. 3809. Counsel for the petitioner has stated that as per the scheme of things the Inspectors are authorized to conduct the inspections in respect of the factories under the Insecticides Act, 1968, but, in this particular case the inspection was done by officers of the rank of Assistant Director (Plant Protection), Agriculture Department, Government of Bihar, Patna, Respondent No. 7, and the Deputy Director (Plant Protection), Patna Division, Agriculture Department, Government of Bihar, Patna, Respondent No. 6. Further, the learned counsel has stated that the enquiry report was not furnished to the petitioner along with the show cause notice, therefore, the petitioner could not submit a detailed explanation. Further, counsel for the



petitioner has stated that the order of the Primary Authority as well as the Appellate Authority is bereft of any valid reasons and on this ground alone the said orders have to be necessarily set aside. Learned counsel has stated that the order of the Primary Authority, i.e., Respondent No. 7 is bereft of any reasons which is against the well established principles of law. That most of the allegations made against the petitioner in the show cause notice are very minor in nature and have been rectified, but the same was not considered by the authorities concerned. Learned counsel, therefore, pray this Hon'ble Court to allow the present Writ Petition and set aside the impugned orders.

4. In the counter affidavit filed by the respondents, the authorities have taken stand that based on the inspection report submitted by the inspecting team, the Respondent No. 4, i.e., the Director, Agriculture Department, Government of Bihar, Patna, has issued the show cause notice duly putting the petitioner on notice and asking him to submit his explanation. After receipt of the explanation from the petitioner, the authority has passed the order cancelling the license of the petitioner. In the counter affidavit filed by the authorities except stating that the explanation submitted by the petitioner was not satisfactory no other reason has been stated.



5. A perusal of the impugned order passed by the Respondent No. 4, the Director, Agriculture Department, Government of Bihar, Patna, vide Memo No. 2296, dated 01.06.2020, who is the Primary Authority shows that except reiterating the facts of the case, no reasons are given in the said order. The order is bereft of any reasons.

6. This Court as well as the Apex Court, on number of occasions, have held that any authority/Court/quasi judicial authority have to necessarily give reasoning in the order passed by them. Unless reasoning is given in the order, neither the party nor Courts before whom the order is challenged will be in a position to appreciate as to what has weighed with the said authority either for dismissing or allowing the application of the petitioner. Though the quasi judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial order, yet they are expected to give a reasoned order which should be precise, concisely setting out the reason for allowing or dismissing the contention/application/case.

In Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota vs. Shukla and Brothers, reported in (2010) 4 SCC, 785, the Hon'ble Supreme Court has held as under:



“..... while exercising the power of judicial review on administrative action and more particularly the judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.....

..... A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer Reasons are the soul of orders Non-recording of reasons could lead to dual infirmities; Firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. The orders of the court must reflect what weighed with the court in granting or declining the relief claimed by the applicant."

7. Even though the counsel for the respondents has stated that the order of the Appellate Authority has dealt with all the issues raised by the petitioner, it is to be noted that once it comes to the light that the order passed by the Primary Authority is invalid and has to be set aside, the appellate order, however, well reasoned also has to be set aside as it cannot stand on its own.

8. This Court in the case of **Arun Chaudhary Vrs.**



the State of Bihar & Ors. reported in **C.W.J.C. No. 19546 of 2019** it has been held as follows :

“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.”

9. Having regard to the same, the impugned orders are set aside and the matter is remitted back to the Primary Authority for passing the order afresh. The Primary Authority before passing the order shall furnish the copy of the enquiry report to the petitioner and give him an opportunity of submitting his explanation. The Primary Authority shall consider the explanation submitted by the petitioner and pass a reasoned order. 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.

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

(A. Abhishek Reddy , J)

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