

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9126 of 2023

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Kara Manjhi Son of Sudhan Manjhi Resident of Village- Karhara, Village Panchayat- Bari, Police Station- Dovi, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub- Divisional Officer, Sherghati (Gaya).
4. The Block Supply Officer, Dovi, Dist.- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binay Kumar, Adv.
For the Respondent/s	:	Mr. S. Raza Ahmad, Sr. Adv. AAG5
	:	Mr. Mohd. Anisul Haque AC to AAG 5

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

Date : 11-09-2023

Heard the parties.

2. The present writ petition is filed for the following relief:-

“That this is an application for issuance of appropriate writ/writs, order/orders and direction/directions to quash the order dated 24.04.2023 contained in memo No.269 by which the Ld. Sub Divisional Officer, Sherghati (Gaya) has capaciously been cancelled the License No. 37/16 of the petitioner carrying on business under the Public Distribution System as a P.D.S. dealer and for direction upon the respondent No. 3 to continue allocation to the Public Distribution System Shop of the petitioner after declaring the cancelation order null and void and/or pass



such other order(s) as your Lordships may deem fit and proper under the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner has stated that the official-respondents without supplying the enquiry report nor examining any complainants/consumers have cancelled the licence issued in favor of the petitioner. Further, learned counsel for the petitioner has stated that there is no independent application of mind by the authority concerned and he has simply relied on the opinion of the Block Supply Officer. The order impugned is bereft of any reasons and, therefore, the impugned order is liable to be set aside and the licence of the petitioner restored.

4. *Per contra*, learned counsel appearing on behalf of the respondents has stated that the petitioner has an alternative and effective remedy of filing an appeal but by surpassing the said provision, the petitioner has straightaway approached this Court under Article 226 of the Constitution of India and the same is not permissible. Further, learned counsel for the respondents has stated that the petitioner can raise all the grounds that he wants before the Appellate Authority and prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the impugned order as well as the show cause notice issued to the petitioner shows that the enquiry



report/opinion of the Block Supply Officer has not been furnished to the petitioner along with the show cause notice. Moreover, it is seen that the impugned order is passed on the opinion of the Block Supply Officer and without taking into consideration the reply given by the petitioner to the show cause notice.

6. A Division Bench of this Hon'ble Court in C.W.J.C. No. 21200 of 2021 vide judgement dated 22.02.2022 has held as under:-

“From the perusal of the order impugned, it appears that the same is primarily based on the opinion of the Block Supply Officer before whom the matter was sent for giving his opinion. There is no difficulty in making a discrete enquiry before coming to any final conclusion. But basing the decision solely on the opinion of the Block Supply Officer is not warranted under the Control Order of 2016. The satisfaction has to be of the Licensing Authority and not of the other functionary under the scheme.”

7. Having regard to the above made submissions, the impugned order is set aside and the matter remanded back to the authority concerned for passing order afresh duly taking into consideration the reply submitted by the petitioner. In case the authority concerned wants to rely on the enquiry report or the



opinion of the Block Supply Officer, the same shall be furnished to the petitioner and the petitioner shall be given an opportunity of submitting his explanation afresh. Thereafter, the authority concerned shall give an opportunity of hearing to the petitioner and pass necessary orders on merits. The entire exercise shall be completed within a period of two months from the date of receipt of the copy of this order.

8. With the above observations, the present writ petition stands disposed off.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.09.2023.
Transmission Date	N/A

