

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10248 of 2022

Vinod Kisku Son of Late Charlis Kisku Resident of Village- Bamdah, Police Station- Chandramandi, District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Jamui.
3. The District Magistrate, Jamui.
4. The Sub-Divisional Officer, Jamui.
5. The Block Development Officer, Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jharkhandi Upadhyay, Advocate
For the Respondent/s : Mr. Alok Ranjan (AC to AAG-5)

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 16-02-2023 Heard Mr. Jharkhandi Upadhyay, learned counsel appearing on behalf of the petitioner and Mr. Alok Ranjan, learned AC to AAG-5 for the State.

2. The petitioner is aggrieved by cancellation of his Fair Price Shop bearing License No. 40 of 2016 issued under the previous scheme. Petitioner is aggrieved by the order dated 03.11.2018 passed by the Sub-Divisional Officer, Jamui which was upheld in supply Appeal No. 04 of 2018 vide order dated 17.05.2019 and finally the Divisional Commissioner upholding the two orders passed by the Sub-Divisional Officer and the appellate order passed impugned order dated 27.05.2022. The



petitioner is aggrieved by the order passed by the Divisional Commissioner, Jamui. He submitted that the Respondent No. 2 has failed to appreciate that the petitioner was given a very short time of four days only to file his show cause in response to notice dated 11.10.2018. The petitioner had filed his show cause on 22.10.2018 with the statutory period prescribed. There has been complete violation of principles of natural justice by not providing petitioner personal hearing. It has been recorded in the order dated 27.05.2022 that 72 hours is enough for petitioner to submit his show cause. The Divisional Commissioner has upheld the order passed by the Sub-Divisional Officer and the Appellate Authority without following the spirit of the provision contained in Section 27(ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016 which is reproduced here under:

“27. Cancellation of License. -

(i) If a licensee violates any provision of this Order or fails to comply duties and responsibilities assigned to the license, his license shall be cancelled by the licensing authority by a written order, and such a cancellation of license shall not affect other actions initiated/initiable under the Essential Commodity Act, 1955 (Central Act 10 of 1955).

(ii) No order of cancellation of a license shall be made until the licensee has been given sufficient opportunity to state his case against the proposal of cancellation of



his license.

(iii) The cases of violation of the provisions of this Order shall be disposed of within two months, as far as possible, after coming in cognizance as for.”

3. Learned counsel appearing on behalf of the State has opposed the prayer of the petitioner. He submitted that the records available with the writ petition reveals that petitioner had not filed his show cause action hence question of providing opportunity does not arise the order impugned is not required to be interfered by this Court.

4. This Court finds that there has been violation of principles of natural justice by not supplying the enquiry report to the petitioner has caused him great prejudice. The matter is remitted back to the Revisional Authority, the Divisional Commissioner, Jamui for passing a reasoned order after giving opportunity of hearing to the petitioner in accordance with the case reported in **2013 (1) PLJR 718 (Fulpati Devi vs. The State of Bihar & Ors)**.

5. The Divisional Commissioner, Jamui is further directed to pass the order within a period of two months from the date of communication of this order.

6. The petitioner must appear before the Divisional Commissioner on each and every day for conduct of proceeding efficaciously.



7. Accordingly, the present writ petition, stands disposed of.

(Purnendu Singh, J)

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