

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.533 of 2021

In

Civil Writ Jurisdiction Case No.1187 of 2020

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Sugandhi Kumari Wife of Madan Patel, Resident of Kobeya, Ward 2, Kubeya,
P.S. - Harshidhi, East Champaran, District- Motihari.

... .. Appellant/s

Versus

1. The State of Bihar through the Secretary Food and Civil Supply Government of Bihar New Secretariat Patna.
2. The District Magistrate East Champaran Motihari.
3. The Sub Divisional Officer Areraj East Champaran Motihari.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ranjeet Kumar, Advocate
For the Respondent/s : Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 10-10-2023

The present appeal has been preferred for setting aside the order and judgment dated 06.08.2021 passed by Hon'ble Single Judge in CWJC No. 1187 of 2020 by which the writ petition preferred by the appellant was dismissed.

2. The matrix of facts giving rise to the present appeal is/are as follows:-

3. The appellant-petitioner was a PDS dealer



at village in Ward No. 2, village- Kubeya in the District of East Champaran.

4. Vide notice contained in memo no. 375 dated 4.10.2018 issued under the signature of respondent Sub Divisional Officer, Areraj, East Champaran by which the appellant-petitioner was directed to file show cause within a period of three days with respect to the inspection report 04.10.18.

5. It is stated that although it has been indicated in the show cause that the copy of the enquiry report has been enclosed but the same has not been provided to the petitioner.

6. On 8.10.2018, the appellant-petitioner submitted the representation with a prayer to exonerate her from all the charges. It has been indicated that due to illness, she could not maintain the up-to-date register. She enclosed medical prescription to support the case.

7. Again vide notice contained in memo no. 386 dated 13.10.2018 passed by Respondent no. 3, she was asked to file reply.

8. On 22.10.2018, the appellant-petitioner submitted reply reiterating her earlier version.



9. Thereafter, vide an order as contained in memo no. 2 dated 27.10.2018 issued by the respondent no. 3, the PDS license no. 4/2016 of the appellant-petitioner was cancelled.

10. This followed CWJC No. 10538 of 2019 by the appellant-petitioner which was disposed of vide an order dated 01.07.2019 directing the respondent District Magistrate, East Champaran to dispose of the appeal within sixty days.

11. Thereafter, the Supply Appeal No. 19 of 2018 was preferred before the District Magistrate, East Champaran which was dismissed vide an order dated 29.11.2019.

12. Aggrieved, the CWJC No. 1187 of 2020 was filed.

13. The case of the appellant-petitioner before the Writ Court was that no proper opportunity was given to her before the order for cancellation of PDS license was passed.

14. The second submission was that no beneficiary ever complained against her.

15. Further, the document submitted by her was not at all considered and in that background, the orders need interference.



16. A counter affidavit on behalf of the respondent nos. 2 and 3 namely, the District Magistrate, East Champaran, Motihari as also the Sub Divisional Officer, Areraj, East Champaran, Motihari was filed before the Writ Court.

17. The stand of the respondent authorities in the counter affidavit was that upon inspection of the shop, number of irregularities were found. Accordingly, she was put on notice and thereafter having found her show cause to be without any merit though it was rejected on 09.10.2018, another opportunity was granted to her vide letter no. 386 dated 13.10.2018 to file her second show cause which was submitted on 22.10.2018.

18. However, once again, vague reply was given to each and every irregularity found at the time of inspection.

19. Accordingly, vide memo no. 02 dated 27.10.2018, the license no. 04 of 2016 relating to PDS allotment made to her at Kubeya in the Sub Division, Areraj, East Champaran was cancelled.

20. Thereafter, following the direction of the Patna High Court in CWJC No. 10538 of 2019 the appellant-petitioner preferred appeal before the Collector, East



Champaran, Motihari vide Appeal No. 19 of 2018 who after having gone through the facts of the case and the order of the Sub Divisional Officer, Areraj vide a reasoned order dated 29.11.2019 chose not to interfere with the order and accordingly rejected the same.

21. The Writ Court thereafter took up the matter and the Hon'ble Single Judge vide an order dated 06.08.2021 having prima facie satisfied with the orders in question chose to dismiss the writ petition.

22. The Writ Court while dismissing the petition held amongst the other that the petitioner at no point of time raised the issue of non-supply of the inquiry report in his replies dated 08.10.2018 and 22.10.2018 and a false plea has been raised in the petition with malafide intention of somehow obtaining favourable order from this Court.

23. Further, both the Sub-Divisional Officer, Areraj, East Champaran and the Appellate Authority (the Collector cum District Magistrate, East Champaran) have passed reasoned orders on 27.10.2018 and 29.11.2019 which do not suffer from any infirmity.

24. Still aggrieved, the present appeal.

25. Heard learned Counsel for the respective



parties.

26. The learned Counsel for the appellant-petitioner has made submissions in continuation of the statements made before the Sub Divisional Officer, Areraj, the Collector, East Champaran as also before the Writ Court. The contention is that the enquiry report was not supplied to her.

27. We have perused the order passed by the Hon'ble Single Judge. The Writ Court has taken note of each and every fact of the case and came to the conclusion that in her show cause filed on 08.10.2018 and 22.10.2018, this non supply of enquiry report was never agitated and thus it can be safely concluded that a false plea is being raised in the writ petition with mala fide intention of obtaining favourable order, which was also deprecated.

28. This Court has further taken note of the fact that the respondents gave opportunity to the appellant-petitioner before arriving at a conclusion for cancellation of the PDS license. The Writ Court thus rightly chose not to interfere with the orders dated 27.10.2018 and 29.11.2019 passed by the SDO, Areraj as well as the District Magistrate, East Champaran respectively.

29. We do not see any reason to interfere with



the order of the Writ Court.

30. The appeal is fit to be dismissed and is accordingly ordered.

31. The LPA No. 533 of 2021 stands dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Neha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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