

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10673 of 2023**

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Sudhir Kumar, Son of Late Sri Bhola Singh, Resident of Village- Dariyapur  
(Barahiya), P.S.- Barhiya, District- Lakhisarai, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Collector, Lakhisarai.
3. The Sub Divisional Officer, Munger, Lakhisarai.
4. The Block Supply Officer, Block- Lakhisarai.

... .. Respondent/s

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**Appearance :**

|                      |   |                                                                                       |
|----------------------|---|---------------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. N. K. Agrawal, Sr. Advocate<br>Mr. Kumar Rajdeep, Adv.<br>Mr. Diksha Kumari, Adv. |
| For the Respondent/s | : | Mr. Upendra Kumar (APP)                                                               |

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

**Date : 09-10-2023**

Heard learned counsel for the parties.

2. The present writ petition has been filed for the  
following relief(s):-

*“i. For issuance of a writ in the nature of Certiorari for quashing the order dated 28.06.2007(Annexure-1) passed by the SDO, Lakhisarai, and also the order dated 07.07.2009 passed in Supply Appeal No. 42/2007-08 by the Collector, Lakhisarai (Annexure-2) whereby and where under the Public Distribution License of the Petitioner bearing License No. 01/1992 has been cancelled on totally non-est and*



*erroneous grounds in completely mechanical manner-without even considering the reply of the Petitioner.*

*ii. For holding and declaring the Order dated 28.06.2007 (Annexure-) passed by the SDO, Lakhisarai and also the order dated 07.07.2009 passed by the Collector, Lakhisarai is liable to be set-aside as same has been passed in violation of the principles of Natural Justice, in as much as the Impugned Order has been passed without considering the facts and circumstances of the case.*

*iii. For issuance of any other relief or relief(s) for which the petitioner is entitled for”.*

3. Learned counsel appearing on behalf of the petitioner has stated that Sub-Divisional Officer, Munger, Lakhisarai, vide order dated 28.06.2007 has cancelled the licence of the petitioner only on the ground that the petitioner has not submitted his explanation to the show cause notice. That the Sub-Divisional Officer did not pass the order on merits of the case and passed the order in a mechanical manner. Though, the petitioner has filed an appeal, as well as revision before the competent authority, both the Appellate as well as the Revisional Authority have dismissed the appeal and the revision respectively without



adverting to the merits of the case confirming the order of the Sub-Divisional Officer.

4. Learned counsel appearing on behalf of the petitioner has stated that the matter is fairly contended by the order of a Division Bench of this Hon'ble Court passed in L.P.A. No. 861 of 2004 dated 06.09.2004, wherein this Hon'ble Court has held that even if the licence holder does not file any explanation to the Show Cause Notice, the Authority concerned are legally bound to pass the orders on merits. Therefore, the learned counsel seeks the indulgence of this Court to set aside the impugned orders and remand the matter back to the authority concerned for passing orders afresh on merits.

5. Per contra, the learned counsel appearing on behalf of the respondents while conceding to the Judgment of this Hon'ble Court referred above has stated that he has no objection for setting aside the impugned orders and remand the matter back to the authority concerned for passing orders afresh.

6. Having regard to the above made submissions and also the law laid down in LPA No. 861 of 2004 dated



06.09.2004, the impugned order dated 28.06.2007 is set aside and the matter is remanded back to the Sub-Divisional Officer, Munger, (Respondent No. 3) for passing a reasoned order afresh strictly on merits. The authority concerned shall give an opportunity to the petitioner to file his explanation and then pass the order duly taking into consideration the explanation submitted by the petitioner.

7. It is needless to mention that before passing any order, the petitioner shall be given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possibly preferably within a period of eight weeks from the date of receipt of the copy of this order. Any order passed shall be communicated to the party.

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

(A. Abhishek Reddy , J)

Bhardwaj/-

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| Uploading Date    | 12.10.2023. |
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