

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11715 of 2022

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Arun Paswan @ Arun Kumar Paswan, Son of Gama Paswan, Resident of Village- Buniyadpur, Post- Rahiyar Kochi, Rahiyar Kunchi, P.S. and Circle- Shivaji Nagar, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Food and Consumer Protection Department, Bihar, Patna.
2. The Collector, Samastipur.
3. The Licensing Officer-cum-Sub-Divisional Officer, Rosera, Samastipur.
4. District Supply Officer, Samastipur.
5. The Block Supply Officer, Shivaji Nagar, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kaushalesh Choudhary, Advocate
For the Respondent/s : Mr. U.P. Singh, A.C to SC-4

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 20-02-2023

Heard Mr. Kaushalesh Choudhary, learned
Counsel appearing on behalf of the petitioner and Mr. U.P.
Singh, learned A.C. to SC-4 appearing on behalf of the
State.

2. The petitioner is aggrieved by order dated
28.02.2018 passed by the Licensing Officer-Cum-Sub
Divisional Officer, Rosera contained in Memo No. 117,
wherein and where under the license of the petitioner has
been cancelled pursuant to which he had preferred PDS



Appeal Case No. 56 of 2018, by the Additional Collector, Samastipur, as no order was passed by the Collector, Samastipur within Statutory time the petitioner was forced to file CWJC No. 8492 of 2020. The writ petition was disposed of vide order dated 24.02.2021 with a direction to the Collector, Samastipur to dispose of the appeal of the petitioner within three months from the date of receipt/production of a copy of the order. The Collector, Samastipur, passed order dated 18.06.2022 by upholding the order of the SDO cancelling the PDS license of the petitioner.

3. Learned counsel appearing on behalf of the petitioner submitted that there is non-consideration of the show cause, as well as, the pleadings made in the appeal filed by the petitioner. No proper opportunity of hearing was given to the petitioner by the Appellate Authority and there is contradiction in the observation made by Appellate Authority in paragraph no. 3 to the show cause issued to the petitioner contained in Memo No. 38 dated 20.01.2018. The following allegation has been made against the petitioner



issued on the basis of inspection dated 17.01.2018.

4. Learned counsel has restricted his prayer that his case is covered by a decision of Division Bench of this Court passed in CWJC No. 21246 of 2021, inasmuch as that the Licensing Authority has failed to abide by Rule 15 of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as the “BTPDS”). The show cause itself reflects that the relevant date, on which the shop of the petitioner was found closed, the petitioner was in Deoghar, Jharkhand. The Provision of Rule 15 is that maximum leave would be of 90 days at one time.

5. Inspection was done on 17.01.2018 and a show cause was issued to the petitioner on 20.01.2018, the petitioner had filed reply to the said show cause immediately after he returned from Deoghar, Jharkhand on 03.02.2018. So petitioner remained absent for the aforesaid period, which is less than 90 days in terms of Rule 15. It is admitted that the shop remained closed for one day. He had made alternative arrangement thereafter.



6. In above circumstances, learned Counsel submitted that order dated 18.06.2022 passed by the Additional Collector, Samastipur in PDS Appeal Case No. 56 of 2018 and Memo No. 239 dated 28.02.2018 passed by the Sub-Divisional-cum-Licensing Officer, Rosera, Samastipur are fit to be set aside and not in accordance with the provision of the Act. The matter is required to be remitted back to the Appellate Authority to pass a reasoned order in accordance with law.

7. Learned counsel appearing on behalf of the respondent has vehemently opposed the submission made by the petitioner. He has made his specific submission that in absence of any arrangement having made by the petitioner during the period he was absent till the date he had filed his show cause and also in absence of any pleading made in this regard, the submission made by the petitioner is not sustainable in the eye of law.

8. Considering the rival submissions of the parties, order dated 18.06.2022 passed by the Additional



Collector, Samastipur in PDS Appeal Case No. 56 of 2018 and Memo No. 239 dated 28.02.2018 passed by the Sub-Divisional-cum-Licensing Officer, Rosera, Samastipur are hereby quashed. The Collector, Samastipur is directed to give proper opportunity to the petitioner and pass a final order. The order must be passed within a period of 60 days as per the statutory provision from the date of fresh application filed by the petitioner.

9. For above observations, the writ petition stands disposed of.

(Purnendu Singh, J)

Arish/-
Nilmani/-

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