

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11200 of 2023

Vijay Kumar Son of Chokat Sah Resident of Village Pirari, Panchayat Pirari,
P.S.- Inerwa, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Food and Consumer Protection, Government of Bihar, Patna.
3. The Divisional Commissioner, Tirhut Range, Muzaffarpur.
4. The District Magistrate, District- West Champaran Bettiah.
5. The Sub Divisional Officer, Narkatiaganj, West Champaran Bettiah.
6. The Block Supply Officer, Mainatand, Narkatiaganj.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Sanjeev Kumar Mishra, Adv. Ms. Manini Jaiswal, Adv. Ms. Ankita Kumari, Adv.
For the State	:	Mr. U.P. Singh, AC to SC-4

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:-

*"(i) For quashing the
order dated 15.05.2023 passed in PDS
revision case no. 21/2022, issued under
the signature of the respondent
Divisional Commissioner, Tirhut Range,
Muzaffarpur whereby and where under
the revisional application has been
rejected in the most mechanical manner
without considering the representation
filed by the petitioner at the initial stage.*



(ii) For quashing the order dated 02.08.2021 passed in CRM No. 296/19-20 under the signature of the Respondent District Magistrate, West Champaran vide which the appeal has been rejected.

(iii) For quashing the order dated 15.01.2019, issued under the signature of respondent Sub Divisional Officer Narkatiyaganj, whereby and where under the license no 42 of 2017 of the petitioner under Public Distribution System is cancelled.

(iv) For direction upon the respondent authorities to restore the license of the petitioner forthwith."

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 favour of the petitioner. Further learned counsel for the petitioner has stated that there is no independent application of mind by the authority concerned and the authority has simply relied on the opinion of the Block Supply Officer for passing the order. That the order impugned is bereft of any reasons and, therefore, prayed for setting aside the impugned order and the



licence of the petitioner be restored.

4. Per contra, learned counsel appearing on behalf of the respondents has stated that the petitioner has an alternative and efficacious remedy of filing an appeal before the District Magistrate. The petitioner by surpassing the said provision, has straightaway approached this Court under Article 226 of the Constitution of India and same is not permissible. Further the learned counsel has also stated that the petitioner can raise all the above mentioned grounds before the Appellate Authority and the appellate authority will deal with the same. Learned counsel has prayed this 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 order impugned is based on the opinion of the Block Supply Officer without any independent application of mind by the authority concerned. The said order is passed 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 law laid down in the above judgment, the impugned order is set aside and the matter is remanded back to the authority concerned for passing orders afresh in accordance with law. If any material is sought to be relied by the authority the copy of the same shall be served on the petitioner and he shall be given an opportunity of filing his explanation. The authority while passing the order shall take into consideration the reply submitted by the petitioner. The authority concerned shall give an opportunity of hearing to the petitioner before passing any orders. The entire exercise shall be completed as expeditiously as possible preferably within a period of two months from the date of receipt of the copy of this



order. Copy of the order passed shall be communicated to the party.

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

(A. Abhishek Reddy , J)

Gauravkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.09.2023
Transmission Date	N/A

