

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11479 of 2023

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Jai Prakash Das @ Jai Prakash Lal Das Son of Sri Suresh Das Resident of Village Purani Kherhi, Panchayat Kashwa Kherhi, Block Shahkund, District- Bhagalpur an Ex P.D.S. dealer of Kaswa Panchayat Block Shahkund, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food, Consumer and Protection Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Bhagalpur Division at Bhagalpur.
3. The Collector, Bhagalpur at Bhagalpur.
4. The Sub- Divisional Officer, Sadar, Bhagalpur, District- Bhagalpur.
5. The Block Supply Officer, Shahkund Block, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Akhilesh Kumar Sinha, Adv. Mr. Aditya Narayan, Adv.
For the State	:	Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

2 12-10-2023 This writ petition has been filed for the following
reliefs:-

(A) For quashing and setting aside the order dated 29-07-2021 (vide Annexure-5) passed by the Sub-Divisional Officer, Bhagalpur Sadar (respondent No. 4), illegally cancelling the P.D.S. shop licence No. 48/2016 without having or supplying a Complaint and without supplying a copy of inquiry report of Block Supply Officer, Shahkund (Respondent No.5) and statement of Consumer which is violation of the Principles of natural justice, hence it is



fit to be quashed.

(B) For quashing the order dated 02-05-2022 (Annexure-6) passed by the Collector-Cum- Appellate Authority, Bhagalpur, illegally dismissing the appeal petition of the petitioner in supply P.D.S. Appeal Case No. 187.2021-22 (Jai Prakash Vs The State of Bihar & Ors) without going in to the merit and valid evidence produced by the petitioner in his favour.

(C) For quashing the order dated 18-04-2023 (Annexure-7) passed by the Divisional Commissioner, Bhagalpur (respondent No. 2) illegally rejecting the revision Petition of the petitioner without examining the legal issue involved and even after submission of sufficient and valid evidences before him and hence, the revisional order dated 18-04-23 is fit to be set aside without cost.

(D) For issuance or a writ of Mandamus or any appropriate writ/order/orders, direction commanding the respondent authorities to restore the licence of the petitioner and permit him to run the shop as usual."

Learned counsel for the petitioner has stated that the
impugned order passed by the Sub-Divisional Officer



cancelling the licence of the petitioner is bad in law as the enquiry report has not been annexed to the Show-Cause notice issued to the petitioner. Learned counsel states that none of the names of the complainants nor the statements made by the complainants were furnished to the petitioner. Further it is stated by the learned counsel for the petitioner that the notice is liable to be set aside on the sole ground that the same is in violation of the provisions of **Rule 27(ii)** of the **Bihar Targeted Public Distribution System (Control) Order, 2016**. Further, the learned counsel has stated that though the petitioner has preferred an appeal and a revision before the concerned authority, both the appellate as well as the revisional authorities have not considered these aspects and passed the order in a mechanical manner. Therefore, learned counsel for the petitioner has prayed this Hon'ble Court to set aside the orders passed by the Revisional Authority, the Appellate Authority as well as the Sub Divisional Officer and remand the matter back to the Sub Divisional Officer for passing orders afresh duly furnishing a copy of the enquiry report, the statements made by the complainants, if any, and their names to the petitioner and also issue a fresh notice in terms of **Rule 27(ii)** of the **Bihar Targeted Public Distribution System (Control) Order, 2016**



and thereafter pass a reasoned order.

Learned counsel appearing on behalf of the respondents has fairly stated that the Show-Cause notice issued to the petitioner does not contain the proposed action to be taken against the petitioner and the copy of the enquiry report have not been annexed to the said Show Cause Notice.

Having regard to the above made submissions, the impugned orders i.e. the order dated 18.04.2023 in Supply Revision Case No.-15/2022-23, the order dated 02.05.2022 in Supply Appeal Case No. 187/2021-2 and the order dated 29.07.2021 passed by the Sub Divisional Officer are set aside and the matter is remanded back to the Sub Divisional Officer concerned for passing orders afresh. Before passing any order, the Sub Divisional Officer concerned shall issue a fresh show cause notice to the petitioner strictly in compliance of **Rule 27(ii)** of the **Bihar Targeted Public Distribution System (Control) Order, 2016** and along with the show cause notice furnish the copies of the enquiry report, the names of the complainants and also the statements made by the complainants, if any, and call for an explanation from the petitioner by giving reasonable time. After receipt of the explanation from the petitioner, the Sub Divisional Officer shall



pass a reasoned order strictly in accordance with law on merits.

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

The writ petition stand allowed to the extent indicated hereinabove.

(A. Abhishek Reddy , J)

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