

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10555 of 2023

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Jay Prakash Narayan, Son of Late Shiv Nandan Prasad, Resident of Village-
Telbhadro, P.S.-Akbarpur, District-Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Nawada.
3. The Sub Divisional Officer, Rajauli, Nawada.
4. The Block Supply Officer, Block, Akbarpur, Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Adv. Mr. Kumar Rajdeep, Adv. Ms.Diksha Kumari, Adv.
For the Respondent/s	:	Mr.Arvind Ujjwal, SC-4.

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

3 16-10-2023 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 07.08.2021(Annexure-2) passed by the SDO, Rajauli, and also the order dated 09.01.2023 passed the District Magistrate, Nawada (Annexure-3) whereby and where under the Public Distribution License of the Petitioner bearing License No.264/2017 (Old License No.-258/07) 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 07.08.2021 (Annexure-2) passed by the SDO, Rajauli, Nawada and also the order dated 09.01.2023 passed by the District Magistrate, Nawada is liable to be set-aside as same has been passed in violation of principles of Natural Justice, in as much as the Impugned Order has been passed without considering the facts and circumstances of the case”.

3. Learned counsel appearing on behalf of the petitioner has stated that Sub-Divisional Officer, Rajauli, Nawada vide order dated 07.08.2021 (Annexure-2) has cancelled the licence of the petitioner only on the ground that the petitioner has not submitted his explanation to the show cause notice. It is stated by the counsel that the show cause notice was never served on the petitioner. 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 but the Appellate authority has dismissed the appeal 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 covered 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. 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 07.08.2021 is set aside and the matter is remanded back to the Sub-Divisional Officer, Rajauli, Nawada, (Respondent No. 3) for passing a



reasoned order afresh strictly on merits. The authority concerned shall serve a copy of the show cause notice and give an opportunity to the petitioner to file his explanation and thereafter pass a reasoned 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)

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