

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10225 of 2023

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Pramila Devi Wife of Baldev Yadav, Resident of Village- Katahar Tand, P.S.-
Chandan, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Banka.
3. The Sub-Divisional Officer, Banka, District- Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv.
For the Respondent/s : Mr. Arvind Ujjwal (Sc 4)

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

2 03-10-2023 The present writ petition is filed for the following
relief:-

"A. A certiorari for quashing and setting aside the order passed by the Sub-Divisional Officer, Banka and issued vide Memo No. 263 dated 31/5/2023 whereby and where under license of the petitioner's P.D.S. shop bearing license No. 70/12 has been cancelled with immediate effect contained in Annexure – 1.

B. A mandamus commanding the Respondents to restore the petitioner's license and to make allotment for the same as before.

C. Any other relief or reliefs for which petitioner may be found entitled in the fact and circumstances of the present case may be granted to him."



2. Learned counsel for the petitioner states that the Sub Divisional Officer has passed the impugned order without verifying as to whether the petitioner has been served the copy of the enquiry report along with the show cause notice. Further, the learned counsel states that the names of the complainants have also not been furnished to the petitioner nor their statements made available. Learned counsel has stated that without considering the above aspects, the impugned order is passed in a mechanical manner and the same is in violation of the principles of natural justice and equity. Learned counsel has stated that under similar circumstances, this Court has held that enclosure of the enquiry report along with the show cause notice is mandatory and any order passed by the authority without complying with the above requirement cannot be sustained. Learned counsel has, therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authority concerned. That the authority may be directed to furnish the copy of the enquiry report and the names of the complainants and statements, if any, made by the said complainants be also furnished. The petitioner may be given an opportunity of filing a fresh explanation and thereafter the



authority may pass necessary orders on merits.

3. Having regard to the above made submissions, the impugned order is set aside, the authority is directed to furnish the copy of the enquiry report, the names of the complainants and the statements made by the complainants, if any, to the petitioner. Thereafter, the petitioner may be given an opportunity of submitting his explanation, after receipt of the explanation the authority concerned shall pass necessary orders on merits strictly in accordance with law as expeditiously as possible preferably within a period of eight weeks from the date of receipt of the copy of this order. Needless to mention that the petitioner shall be given an opportunity of hearing before passing any orders. The copy of the order shall be communicated to the party.

4. Accordingly, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

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