

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10437 of 2023

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Rameshwar Sah Son of Shankar Sah Resident of Village- Piparahi,
Panchayat- Karawana, P.S.- Sursand, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Sub Divisional Officer, Pupri, Sitamarhi.
3. The Block Supply Officer, Nanpur, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Adv.
	:	Mr. Uday Kumar, Adv.
	:	Mr. Kumar Rajdeep, Adv.
	:	Mr. Rajni Singh, Adv.
For the Respondent/s	:	Mr. Upendra Pratap Singh, AC to SC 4

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

2 04-10-2023 Heard the learned counsel for the parties.

The present writ petition has been filed for the
following reliefs:-

*“i. For issuance of a writ
in the nature of Certiorari for
quashing the order dated 10.04.2023
passed by the SDO, Pupri, Sitamarhi
whereby and where under the Public
Distribution License of the petitioner
bearing License No. 38/97 has been
cancelled -on totally non-est and
erroneous grounds completely in
mechanical manner and/or violating
the Principles of Natural Justice
without even considering the reply of
the Petitioner.*

*ii. For holding and
declaring the Order dated
10.04.2023 passed by the SDO,
Pupri, Sitamarhi 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/show cause filed by the petitioner.

iii. For issuance of any other relief or relief(s) for which the petitioner is entitled for.”

2. Learned counsel for the petitioner has stated that the authority concerned has issued the show cause notice without there being any proposal for cancellation of the license granted to the petitioner even though, the petitioner has submitted his detailed explanation to the said show cause notice, the authority concerned has not considered the same and cancelled the license of the petitioner. Learned counsel for the petitioner has stated that authority concerned except stating that the explanation submitted by the petitioner is not satisfactory has not given any other reason for passing the impugned order. Learned counsel has further stated that the order is bereft of reasons and the same is liable to be set aside.

3. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner has an alternative and efficacious remedy of filing an appeal before the District Magistrate therefore, prayed this Hon'ble Court to dismiss the present writ petition.



4. A perusal of the show cause notice issued to the petitioner reveals that absolutely there is no proposal for taking any action against the petitioner. The show cause notice does not reveal as to what action authority proposes to take against the petitioner. This Hon'ble Court while dealing with similar matter in CWJC No. 21202 of 2021 with analogous cases has stated that Rule 27(ii) of Control Order, 2016 makes it mandatory for the authorities to mention as to what proposed action is sought to be taken against the license holder. Further, the order passed by the authority concerned except stating that the explanation submitted by the petitioner is not satisfactory has not given any other reason.

5. This Court as well as the Apex Court, on number of occasions, have held that any authority/Court/quasi judicial authority have to necessarily give reasoning in the order passed by them. Unless reasons are given in the order, neither the party nor the superior forum or Courts before whom the order is challenged will be in a position to appreciate as to what has weighed with the said authority either for dismissing or allowing the application of the petitioner. Though the quasi judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial order,



yet they are expected to give a reasoned order which should be precise, concisely setting out the reason for allowing or dismissing the contention/application as the case may be.

In Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota vs. Shukla and Brothers, reported in **(2010) 4 SCC, 785**, the Hon'ble Supreme Court has held as under:

“..... while exercising the power of judicial review on administrative action and more particularly the judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.....

..... A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer Reasons are the soul of orders Non-recording of reasons could lead to dual infirmities; Firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. The orders of the court must reflect what weighed with the court in granting or declining the relief claimed by the applicant.”

5. Having regard to the above made submissions, the



impugned order is set aside and the matter is remanded back to the Sub-Divisional Authority for issuing a fresh show cause notice and giving an opportunity of filing an explanation to the said show cause notice thereafter, the authority concerned is directed to pass a reasoned order duly taking into consideration the explanation submitted by the petitioner. It is needless to observe that before passing any order, the authority concerned is directed to give an opportunity of hearing to the petitioner. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.

6. With the above direction, the present writ petition is allowed.

(A. Abhishek Reddy, J)

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