

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13001 of 2022

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Rajkumar Manjhi son of Devki Manjhi, Resident of Village-Triloki Chak,
Village Panchayat-Tankuppa, Police Station-Tankuppa, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The District Magistrate, Gaya.
4. The Sub-Divisional Officer, Sadar Gaya, Gaya.
5. The Block Supply Officer, Tankuppa, Dist.-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinay Kumar, Advocate
For the Respondent/s : Mr. Upendra Pratap, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 14-02-2023 Heard Mr. Vinay Kumar, learned counsel appearing

on behalf of the petitioner and Mr. Upendra Pratap, learned AC

to learned SC-4 for the respondents.

2. In the present writ petition, the petitioner has
prayed for the following relief(s):-

*“1. That this is an application for
issuance of appropriate writ/writs,
order/orders and direction/directions to
quash the order dated 30.11.2021 contained
in Memo No. 1281 by which the Ld. Sub
Divisional Officer, Sadar Gaya has
suspended the License No. 30/16 and quash
the consequential order dated 23.06.2022
contained in 775 whereby in consequence to
suspension order license has been cancelled
without accepting the show cause reply
contrary to clause 28 of the Bihar Targeted*



P.D.S. (Control) Order, 2016 and for direction upon the respondent No. 3 to continue allocation to the Public Distribution System Shop of the petitioners after declaring the suspension and cancellation orders null and void and/or pass such other order(s) as your Lordships may deem fit and proper under the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner submitted that in terms of the provision of Rule 28, memo which prescribes for taking lawful action within 180 days as far as possible. In the present case, petitioner was served with the show-cause notice and pursuant to the same petitioner had categorically denied the allegation made therein and had also produced the evidences to substantiate his claim and the Sub-Divisional Officer-cum-Licensing Authority, Sadar Gaya, Gaya-respondent no. 3, without giving him further opportunity of hearing as per the statutory provision denied the prayer of the petitioner for granting him further time to be heard. He rejected his claim that the reply was required to be filed within three days and hurriedly passed order on the same day i.e. 23.06.2022 in the absence of the petitioner.

4. Learned counsel appearing on behalf of the respondent submitted that there is no infirmity in the order and the same has been passed after giving opportunity of hearing to



the petitioner. The petitioner had himself remained absent on the date fixed for submitting his show-cause in compliance of notice contained in memo no. 641/Aa dated 25.05.2022.

5. Heard the rival submissions of the parties.

6. From perusal of the records it appears that F.I.R was lodged on 12.11.2021 and the license of the petitioner was suspended on 30.11.2021 and thereafter, after lapse of statutory period for taking lawful action in accordance with Rule 28, a show-cause notice was issued to the petitioner on 25.05.2022. The petitioner was given three days time to file his reply and produce all the evidences in support. The impugned order was passed on 30.05.2022. Rule 28 of Bihar Targeted Public Distribution System (Control) Order, 2016 *inter alia* as follows:-

“28. Actions to be taken against a licensee after a FIR lodged. - If an FIR is lodged against a licensee under the Essential commodities Act, 1955 or for any other criminal cases, and he is sent to jail or he goes fugitive, his license shall be suspended by the licensing authority with immediate effect, and after serving show cause notice upon him in accordance with Civil Procedure Code and giving him sufficient opportunity to present his case, a lawful action shall be taken within 180 days, as far as possible.”

7. The Rules provide that period of suspension cannot



survive beyond a period of 180 days and during the said period of 180 days of suspension of the license, a final order has to be passed. The same has not been done in the present case.

8. It is admitted that the show-cause notice was issued on 25.05.2022 and the respondent no. 3 has hurriedly passed the order on 30.05.2022 without giving any opportunity of hearing to the petitioner and in absence of any show-cause filed on record an ex-parte order has been passed which has caused prejudice to the petitioner. The law is well settled that the quasi-judicial authority must abide by the principle of natural justice.

9. The order having passed without jurisdiction and without following the principle of natural justice, contained in memo no. 775 dated 23.06.2022 is hereby quashed and set aside. The respondent no. 3, if so advised, may issue fresh notice in accordance with the provision of Rule 28.

10. Accordingly, the present writ petition is allowed.

(Purnendu Singh, J)

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