

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13723 of 2022

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Ravindra Kumar Gupta @ Ravindra Prasad (male) aged about 57 years, son of Sarju Saw, Resident of Ward No.-4, near Panchmukhi Mandir, Naya Bazar, Nagar Parishad Sherghati, P.S.-Sherghati, 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 Sub-Divisional Officer, Sherghati (Gaya).
4. The Block Supply Officer, Sherghati, Dist.-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar, Advocate.
For the Respondent/s : Mr. S. Raza Ahmad (AAG-5).

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

4 05-12-2023 Heard learned counsel for the parties.

2. The present Writ Petition has been filled for the following relief(s):-

“.... for issuance of appropriate writ/writs, order/orders and direction/directions to quash the order dated 08-08-2022 contained in memo No. 513 by which the Ld. Sub Divisional Officer, Sherghati (Gaya) has capaciously been cancelled the License No. 43/16 of the petitioner carrying on business under the Public Distribution System as a P.D.S dealer and for direction upon the Respondent No. 3 to continue allocation to the Public Distribution Shop of the petitioner after declaring the cancelation order null and void.”

3. Learned counsel appearing on behalf of the petitioner has stated that the official-respondents without



supplying the enquiry report nor examining any complainants/consumers have cancelled the licence issued in favour of the petitioner. Further, learned counsel for the petitioner has stated that there is no independent application of mind by the authority concerned and he has simply relied on the opinion of the Block Supply Officer. The order impugned is bereft of any reasons and therefore, the impugned order is liable to be set aside and the licence of the petitioner restored.

4. Per contra, the learned counsel appearing on behalf of the respondents has stated that the petitioner has an alternative and effective remedy of filing an appeal but by surpassing the said provision, the petitioner has straightaway approached this Court under Article 226 of the Constitution of India and the same is not permissible. Further, learned counsel for the respondents has stated that the petitioner can raise all the grounds that he wants before the Appellate Authority and prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the impugned order as well as the show cause notice issued to the petitioner shows that the enquiry report/opinion of the Block Supply Officer has not been furnished to the petitioner along with the show cause notice. Moreover, it is seen that the impugned order is passed on the



opinion of the Block Supply Officer and without taking into consideration the reply given by the petitioner to the show cause notice.

6. A Division Bench of this Hon'ble Court in CWJC No. 21200 of 2021 vide judgement dated 22.02.2022 has held as under:-

"From the perusal of the order impugned, it appears that the same is primarily based on the opinion of the Block Supply Officer before whom the matter was sent for giving his opinion. There is no difficulty in making a discrete enquiry before coming to any final conclusion. But basing the decision solely on the opinion of the Block Supply Officer is not warranted under the Control order of 2016. The satisfaction has to be of the Licensing Authority and not of the other functionary under the Scheme."

7. Having regard to the above made submissions, the impugned order is set aside and the matter remanded back to the authority concerned for passing order afresh duly taking into consideration the reply submitted by the petitioner. In case, the authority concerned wants to rely on the enquiry report or the opinion of the Block Supply Officer, the same shall be furnished to the petitioner and the petitioner shall be given an opportunity of submitting his explanation afresh. Thereafter, the authority concerned shall give an opportunity of hearing to the petitioner and pass necessary orders on merits. The entire exercise shall be



completed within a period of two months from the date of receipt of the copy of this order.

8. With the above observations, the present Writ Petition stands disposed off to the extent indicated above.

(A. Abhishek Reddy , J)

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