

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14921 of 2022**

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Sushil Rai @ Sushil Roy Son of Sri Balram Roy, Resident of Village- Tirhuta,  
Ward no.- 9, Sarak Panchayat- Tirhuta, Block and P.S.- Babubarhi, District-  
Madhubani ... Petitioner

Versus

1. The State of Bihar through Collector of the District, Madhubani.
2. The Collector of the District, Madhubani.
3. The District Co-operative Officer, Madhubani.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd (B.S.F.C.) Madhubani.
5. The District Supply Officer, Madhubani.
6. The Sub-Divisional Officer, (S.D.O.) Sadar, Madhubani.
7. The Block Supply Officer, Babubarhi, Madhubani.
8. The Superintendent of Police, (S.P.) Madhubani.
9. The Sub-Divisional Police Officer, (S.D.P.O), Sadar, Madhubani.

... Respondents

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**Appearance :**

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|---------------------|---|-----------------------------------------------------------------|
| For the Petitioner  | : | Mr.Shashi Nath Jha, Adv.                                        |
| For the State       | : | Mr.Anisul Haque, AC to AAG VIII                                 |
| For the Corporation | : | M/s Shailendra Kumar Singh, Usha Kumari & Utkarsha Utpal, Advs. |

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

3      11-08-2023                      Heard the learned counsel for the parties.

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

*“(i) Quashing/setting aside the order dt. 13.04.2018 (Annx-3) passed by the Resp no. 2 (Collector, Madhubani) whereby and whereunder the Appeal, filed by the petitioner bearing (Supply) Appeal No. 34 of 2016-17 (Sushl Rai Vs. The State of Bihar) against the order of cancellation of his P.D.S. license has been rejected.*

*(ii) Quashing/setting aside the order dt. 16.09.2016 (Annx-1) passed by the Resp no. 6 (S.D.O.) whereby the P.D.S. license of the petitioner bearing license No. 14 of 2012 had been cancelled.*



*(iii) Directing the Respondents-authorities to restore the P.D.S. license No. 14 of 2012 of the petitioner forthwith as there is now no ground to hold it cancelled any longer.*

*(iv) Holding and declaring that when there is no involvement o the petitioner in the alleged criminal case and no case is made out against the petitioner as per the supervision report (Annex-4) also, then there is no justification to hold the license of the petitioner cancelled for any longer.*

*(v) Granting any other relief/reliefs for which the petitioner may be found entitled to.”*

3. Learned counsel for the petitioner has stated that the petitioner has preferred an appeal before the District Magistrate, Madhubani, against the cancellation of the license held by the petitioner. That the appellate authority without going into the merits of the case has dismissed the appeal solely on the ground that the criminal case filed against the petitioner is pending. Learned counsel has stated that the appellate authority out to had gone into the merits of the case and ought to have decided the case on merit instead of mechanically dismissing the case on the sole ground that the criminal case filed against the petitioner is pending. Learned counsel has stated that the pendency of the criminal case cannot be a ground for dismissing the appeal filed by the petitioner. That the petitioner has been suffering from 2016 as the license of the petitioner has been cancelled on the ground of non-delivery of



427.46 quintals of CMR (custom milled rice). Learned counsel has stated that even though the petitioner has submitted several documents to substantiate the facts that he has deposited/delivered the above mentioned CMR rice within the stipulated time, i.e., 30.07.2016, but, the same was not taken into consideration and the appeal has been dismissed in a mechanically manner on the sole ground that the criminal case is pending against the petitioner.

4. Learned counsel has stated that the appellate authority instead of verifying the documents filed by the petitioner along with the appeal has not passed the order on merits, therefore, prayed this Hon'ble Court to set aside the order of the appellate authority.

5. Per contra, the learned counsel appearing on behalf of the respondents has stated that the present writ petition is not maintainable as the petitioner has alternative and efficacious remedy of filing a revision against the appellate authority's order. Learned counsel has stated that the petitioner's license was cancelled on the ground that the petitioner has not supplied the 427.46 quintals of CMR rice for which an First Information Report (FIR) was also lodged against the petitioner. Learned counsel has stated that the appellate authority duly taking into consideration the seriousness of the allegation made against the petitioner has dismissed the appeal on merits. That there are no



valid reasons to interfere with the order of the appellate authority as the same is on merits and prayed for dismissal of the writ petition.

6. Admittedly, in the present case the license of the petitioner was cancelled by the Sub Divisional Officer vide order, dated 16.09.2016, against which the petitioner has preferred an appeal before the District Magistrate, Madhubani. The District Magistrate, Madhubani, has dismissed the appeal filed by the petitioner and the same is subject of challenge in the present writ petition.

7. A perusal of the impugned order shows that the appellate authority without going into the merits of the case has dismissed the appeal solely on the ground that the criminal case filed against the petitioner is pending adjudication. It is to be noted that the appellate authority is obligated to pass orders on merits and simply cannot dismiss the appeal on mere technical grounds. The pendency of the criminal case cannot be a ground for dismissal of the appeal. The appellate authority ought to have passed order on merits duly taking into consideration the document filed by the petitioner. When it is a specific case of the petitioner that he has filed all the relevant documents to show that he has already supplied the required quantity of CMR rice before the stipulated date, the appellate authority was obligated to verify the same and pass orders on merits.



However, the appellate authority for reasons best known has passed the order in a mechanical manner and dismissed the appeal on the sole ground that the criminal case filed against the petitioner is still pending, the said reasons cannot be countenanced.

8. Having regard to the above, the impugned order is set aside, the matter is remanded back to the appellate authority for passing orders afresh duly taking into consideration the grounds of appeal raised by the petitioner and also the documents filed along with the appeal. The petitioner shall be put on notice and given opportunity of hearing before passing any order. Any order passed shall be communicated to the petitioner. The entire exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

9. With the above directions, the writ petition stands **allowed.**

**(A. Abhishek Reddy , J)**

Shamshad/-

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