

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14447 of 2022

=====

M/s. Laxmi Narayan Traders, Surajgarha, P.S.- Surajgarha, District-
Lakhisarai through its proprietor namely, Abhishek Kumar (M) aged about 29
years, Son of- Kanhaiya Pandey, Resident of Village- Jaitpur, P.S.- Barahiya,
District- Lakhisarai ... Petitioner

Versus

1. The State of Bihar through The Principal Secretary, Agriculture Department,
Government of Bihar, Patna.
2. The Commissioner, Munger Division, Munger.
3. The Joint Director (Agriculture)-cum-Appellate Authority, Munger Division,
Munger.
4. The District Magistrate, Lakhisarai.
5. The District Employment Officer, Lakhisarai.
6. The District Agriculture Officer, Lakhisarai.
7. The Sub-Divisional Agriculture Officer, Lakhisarai, District- Lakhisarai.
8. The Block Agriculture Officer, Surajgarha, District- Lakhisarai.

... Respondents

=====

Appearance :

For the Petitioner : Mr.Sanjeev Kumar, Adv.
For the Respondents : Mr.Sarvesh Kr. Singh (Aag13)

=====

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

2 05-12-2023 Heard the parties.

2. The present writ petition has been filed for the
following relief(s) :

*(i) For issuance of an appropriate writ in the nature
of Certiorari for quashing/setting aside the Memo
No.327 dated 25.02.2022 passed by District
Agriculture Officer. Lakhisarai (Anneuxre-7) and
Memo No. 687 dated 13.05.2022 passed by Joint
Director (Agriculture)-cum- Appellate Authority,
Munger Division, Munger in Appeal Case No.
39/2021-22 (Annexure-10), whereby the license of
petitioner for marketing the fertilizer etc. has been*



cancelled.

(ii) For directing the respondents to reinstate the license of petitioner for marketing the fertilizers etc. in view of

(iii) Any other relief or reliefs for which the petitioner is entitled under law as well as on facts.

3. Learned counsel for the petitioner has stated that the petitioner has been granted license for marketing fertilizers in the year 2019 and that the petitioner has been conducting the business till date without any complaint from any consumer or farmer. That on 28.07.2021 when the petitioner was not present, the unit of the petitioner was raided and sealed by the District Agriculture Officer, Lakhisarai. After the petitioner came to know about the same, the petitioner has approached the District Agriculture Officer for unsealing the premises, but, no action was taken on the request of the petitioner. Thereafter, the petitioner has approached the District Magistrate, Lakhisarai, on 09.10.2021 and gave a detailed representation. That the District Magistrate was pleased to order for a report from the District Employment Officer, Lakhisarai, after making due enquiry. That the District Employment Officer made enquiries and recorded the statements made by the complainants and found that some of the complainants have denied making any



complaints against the petitioner. The District Employment Officer also found that one of the alleged complainants had died six years back. That the District Employment Officer submitted his enquiry report on 03.03.2022 to the District Magistrate bringing forth the above discrepancies. That while matters stood thus the District Agriculture Officer has cancelled the license of the petitioner on 25.02.2022, the petitioner has preferred an appeal against the said order, dated 25.02.2022, of District Agriculture Officer, but, the same was rejected. Learned counsel for the petitioner has stated that the District Magistrate on the basis of enquiry report submitted by the District Employment Officer had asked the District Agriculture Officer to conduct an enquiry and submit a report. Thereafter, the Block Supply Officer and Agriculture Coordinator were directed to submit their explanation. Learned counsel has stated that both, appellate as well as primary authorities, without taking into consideration the enquiry report submitted by the District Employment Officer have passed the orders of cancellation and the order of dismissal of the appeal respectively in a mechanical manner. That the enquiry report submitted by the District Employment Officer makes it abundantly clear that complaints made against the petitioner are false and frivolous and that one of the complainants had died more than six years back. Therefore, learned counsel for the



petitioner has prayed this Hon'ble Court to allow the Writ Petition and set aside the orders passed by the appellate as well as the primary authorities.

4. 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 present Writ Petition is liable to be dismissed. That the orders passed by appellate and primary authorities are well reasoned order and needs no interference. Learned counsel has stated that after receipt of the complaint from various farmers that the petitioner was supplying fertilizer at higher rate, the District Agriculture Officer had raided the shop of the petitioner and having found that the petitioner was not cooperating with the District Agriculture Officer has sealed the shop of the petitioner. The Station House Officer was requested to lodge an First Information Report (FIR) against the petitioner. That the primary authority as well as the Appellate Authority having found that the petitioner is indulging in black marketing of the fertilizers and violating the Fertilizer (Control) Order, 1985, have passed the order of cancellation, therefore, prayed this Hon'ble Court to dismiss the present Writ Petition.

5. A perusal of the records reveals that the shop of the petitioner was raided on 28.07.2021 and the same was sealed. Thereafter, the fact that the petitioner has made representation to



the District Magistrate who in turn has asked the District Employment Officer to verify the veracity of the representation. The fact that the District Employment Officer after due enquiry filed his report has not been denied by the authority concerned. The fact also remains that the District Employment Officer has submitted an enquiry report, dated 03.03.2022, to the District Magistrate stating that one of the complainants had died six years back and that the complaint made against the petitioner was false and frivolous one

6. However, in the counter affidavit filed by the respondents except stating that they are not agreeing with the findings given by the District Employment Officer in his enquiry report, dated 03.03.2022, nothing has been stated with regard to the allegation that one of the complainants had died six years back.

7. Be that as it may, the fact remains that the District Magistrate having called for a report from the District Employment Officer ought to have awaited the report of the District Employment Officer before passing any order in the appeal filed by the petitioner. More over, the District Magistrate did not consider the enquiry report of the District Employment Officer while passing the order in the appeal and has decided the appeal in a mechanical manner.



8. Having regard to the above facts and circumstances, this Court finds that the action of the District Magistrate in dismissing the appeal in a mechanical manner without considering the enquiry report of the District Employment Officer, dated 03.03.2022, is not proper and contrary to the provisions of the Fertilizer (Control) Order, 1985, therefore, the same is liable to set aside.

9. This Court deems it fit and proper to set aside the order vide Memo No. 687 dated 13.05.2022 passed by Joint Director (Agriculture)-cum- Appellate Authority, Munger Division, Munger in Appeal Case No. 39/2021-22 and remand the matter back to the Appellate Authority for passing orders afresh duly taking into consideration the report of the District Employment Officer, dated 03.03.2022. The authority shall give an opportunity of hearing to the petitioner before passing any order. The entire exercise shall be completed as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order. Any orders passed shall be communicated to the petitioner.

10. With the above directions, this Writ Petition stands **disposed of.**

(A. Abhishek Reddy , J)

Shamshad/-

U			
---	--	--	--

