

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12666 of 2023

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Umesh Prasad Son of Harihar Prasad Resident of Benwalia, Jhaua, Bhojpur,
P.S.-Jagdishpur, Bihar, 802351.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Food and Consumer Protection, Government of Bihar, Patna.
3. The Divisional Commissioner, Patna.
4. The District Magistrate, Bhojpur.
5. The Sub Divisional Officer, Bihia, Dist.-Bhojpur, Ara
6. The Block Supply Officer, Bihia, Dist.-Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Prasad, Adv.
	:	Mr. Sanjeev Kumar Mishra, Adv.
	:	Mrs. Manini Jaiswal, Adv.
	:	Ms. Ankita Kumari, Adv.
For the Respondent/s	:	Mr. Anisul Haque AC to AAG5

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

2 25-09-2023 Heard the learned counsels for the parties.

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

“(i) For quashing the order contained in memo no 1361 dated 4.8.2023 issued under the signature of Respondent Sub Divisional Officer, Bihia, Bhojpur, whereby and where under the license no. 82/2016 has been cancelled without giving reasonable opportunity given to the petitioner.

(ii) For restoration of the PDS license No. 82 of 2016 of the petitioner.



(iii) Any other order or orders as your Lordships may deem fit and proper in the facts and circumstances of the case be granted to the petitioner.”

3. Learned counsel appearing on behalf of the petitioner states that the authority concerned without considering the explanations submitted to the show cause notices has passed the impugned order. Further, it is stated that after receipt of the first show cause notice (Annexure P/1), the petitioner has submitted a detailed explanation on 26.07.2023 (Annexure-P/2) and, thereafter, the authority has again issued a second show cause notice on 31.07.2023 (Annexure-P/3) for which the petitioner has given a suitable reply on 05.08.2023. (Annexure-P/4). However, authority concerned without advertng to the explanation submitted by the petitioner has passed the impugned order on 04.08.2023 (Annexure-P/5). Moreover, the petitioner was given only three days time to file his explanation to the second show cause notice. Learned counsel for the petitioner states that the petitioner was not given reasonable opportunity to present his case before the authority concerned and the authority has in a post-haste manner passed the impugned order. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authority concerned for passing orders afresh



duly taking into consideration the explanation and other documents submitted by the petitioner.

3. *Per contra*, Learned counsel for 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. Learned counsel has stated that the petitioner may be relegated to the Appellate Authority and the Appellate Authority may be directed to pass a reasoned order, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

4. A perusal of the impugned order as well as the second show cause notice issued to the petitioner on 31.07.2023 shows that the petitioner was given only three days time to file his explanation. Even though, the petitioner has submitted a detailed explanation to the first show cause notice, the authority concerned for reasons best known has only stated that the same is not satisfactory. This Court as well as Hon'ble Supreme Court in a catena of cases has held that whenever person is served with the show cause notice, reasonable opportunity has to be given to him to file his explanation. This Court has repeatedly held that a minimum period of three days needs to be given to file his explanation. However, in this case the petitioner was directed to



file the explanation within three days and even though the petitioner has filed the explanation on 05.08.2023, the authority concerned has passed the order on 04.08.2023, the same is in violation of principles of natural justice and equity.

5. Having regard to the above made submissions, the impugned order is set aside and the matter is remanded back to the concerned SDO for passing a reasoned orders afresh duly taking into consideration the explanations to the respective show cause notices submitted by 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. It is needless to mention that before passing any orders, the petitioner shall be put on notice and given an opportunity of hearing. Any orders passed shall be communicated to all the parties.

6. With the above direction, the present writ petition stand disposed off.

(A. Abhishek Reddy, J)

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