

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15618 of 2022

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Jhapas Paswan, Son of Late Ram Kripal Paswan, Resident of Village-
Dalkawa, P.S.- Sonbarsa, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The District Magistrate, Sitamarhi, District- Sitamarhi.
3. The District Supply Officer, Sitamarhi, District- Sitamarhi.
4. The Sub Divisional Officer cum Licensing Authority, Sitamarhi Sadar, District- Sitamarhi.
5. The Block Supply Officer, Block- Sonbarsa, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Chandra, Adv.

For the Respondent/s : Mr. S. Raza Ahmad, AAG-5.

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

4 30-08-2023 Heard the parties.

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

- (i) *To quash the order dated 27.08.2022 issued through Memo No. 906/Aa under the signature of the Sub-Divisional Officer, Sitamarhi, Sadar (Respondent No. 4) by which he has cancelled the P.D.S. Licence No. 59/2007 of the petitioner. (Annexure-4).*
- (ii) *To restore the P.D.S. shop licence of the petitioner.*

3. Learned counsel appearing on behalf of the petitioner has stated that the impugned order is passed by the



Sub-Divisional Officer without serving a copy of the enquiry report along with show cause notice. That the non-furnishing of the enquiry report along with the show cause notice is bad in law and in violation of the principles of natural justice and equity. Learned counsel has therefore prayed for setting aside the impugned orders of the Sub-Divisional Officer and restoration of the licence.

4. Per contra the learned counsel appearing on behalf of the respondents has vehemently opposed the maintainability of the present CWJC and drawn the attention of this Court to the counter affidavit filed by the respondents wherein it has been specifically stated that the petitioner was served with the copy of the inspection report along with show cause notice. Moreover, it is stated by the counsel for the respondents that the petitioner is having an alternative and effective remedy of filing an appeal but by circumventing the said provision, the petitioner has straightaway approach this Court under Article 226 of the Constitution of India and same is not permissible.

5. Further, the learned counsel has also stated that the petitioner can raise all the grounds that he wants before the Appellant Authority and prayed this Court to dismiss the present writ petition.



6. Having regard to the above made submissions and also the fact that the petitioner is having an alternative and effective remedy of filing statutory appeal under Clause 32 (iii) of the Bihar Targeted Public Distribution System (Control) Order, 2016, the present writ petition is disposed off granting liberty to the petitioner to approach the Appellate Authority within a period of four weeks from today. On such appeal being filed, the same shall be considered by the Appellate Authority on its own merits in accordance with law and pass necessary orders as expeditiously as possible preferably within a period of eight weeks thereof.

7. It is needless to mention that before passing any order the petitioner shall be given an opportunity of hearing. Any order passed shall be communicated to the petitioner.

8. With the above observations, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

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