

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22413 of 2018

Sunil Paswan @ Sunil Kumar S/o Bhagwat Paswan Resident of Village-
Chokomin,P.S.Harnaut,Distt.-Nalanda ... Petitioner
Versus

1. The State Of Bihar
2. The Commissioner,Patna Division,Patna
3. The Collector-cum-District Magistrate,Nalanda
4. The Sub Divisional Officer,Biharsharif,Nalanda
5. The Block Supply Officer,Harnaut,Nalanda ... Respondents

Appearance :

For the Petitioner : Mr.Dhananjaya Nath Tiwari, Adv.
For the Respondent/s : Mr.Arvind Ujjwal, SC IV

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

3 28-08-2023 Heard the learned counsel for the parties.

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

“..... for quashing the order contained in memo No. 603 dated 11.11.1998 passed by the learned Sub Divisional Officer, Nalanda by which the PDS license of the petitioner being license No. 08 of 1996 has been cancelled without supplying the copy of the inquiry report and further for quashing the order dated 20.10.1999 passed in Supply Case No. 24 of 1998 passed by the Learned District Magistrate, Nalanda by which the statutory appeal filed on behalf of the petitioner was dismissed and further for quashing the order dated 23.08.2011 passed in E.C. Revision No. 101/2009 by the learned Divisional Commissioner, Patna by which the revision filed on behalf of the petitioner has been also dismissed and further be pleased to restore the PDS license of the petitioner and also restore the supply of the petitioner.”

3. Learned counsel for the petitioner has stated that



the petitioner was granted PDS license in the year 1996 and, thereafter, the Sub Divisional Officer has cancelled the license of the petitioner vide Memo No. 603, dated 11.11.1998. The learned counsel has stated that the petitioner has challenged the order of the Sub Divisional Officer, Nalanda, by way of statutory appeal before the District Magistrate, but, the same has also been dismissed. Thereafter, the petitioner has preferred a revision before the Divisional Commissioner, Patna, and the same was also dismissed. Learned counsel has stated that the original order passed by the licensing authority is against the principles of natural justice and equity and the same cannot be sustained.

4. Learned counsel has stated that the licensing authority concerned, i.e., the Sub Divisional Officer, has not furnished the copy of the enquiry report along with the show cause notice, therefore, the order passed by the Sub Divisional Officer is against the principles of natural justice and equity and the same is liable to be set aside. That the orders of the appellate as well as the revisional authority, which are based on the orders of the Sub Divisional Officer are also liable to be set aside on that ground alone.

5. Per contra, the learned counsel appearing on behalf



of the respondents has vehemently opposed the maintainability of the writ petition and stated that the writ petition is liable to be dismissed as all the three authorities have held that the license of the petitioner is liable to be cancelled. Learned counsel has stated that both, the appellate as well as the revisional authorities, did not find any infirmity in the order passed by the Sub Divisional Officer and confirmed the same. That the authority has followed by the procedure as contemplated under the act and duly putting the petitioner on notice and calling for an explanation the orders were passed, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. A perusal of the record more particularly the show cause notice issued to the petitioner reveals that the enquiry report has not been annexed to the show cause notice.

7. This Court in the judgment reported in **2013(3) PLJR, 249 (Krishna Kumar Srivastava Vrs. the State of Bihar & Ors.)** has held as under :

“This Court has repeatedly made it clear that if a show cause notice is issued to a PDS dealer by the licensing authority on the basis of statement of consumers/beneficiaries attached to the shop in respect of non-supply or inadequate supply of food grains or charging higher amount than prescribed, names of such consumers/beneficiaries should be furnished to the dealer and, if any statement has been made on the basis of which any enquiry report has been



submitted, copies of such statement and the report should also accompany the show cause. This basic requirement of fair play in action is only for compliance of Principles of Natural Justice. If the show cause notice is vague and does not contain particulars in support of the allegations and is not accompanied with the relevant materials which may be considered by the licensing authority at the time of passing final orders, the same has to be termed as giving inadequate opportunity to the PDS licence holder.”

8. Having regard to the above law laid down by this Court, this Court finds that the non-supply of the enquiry report along with the show cause notice is bad in law and contrary to the principles of natural justice and equity. That unless and until the enquiry report is supplied to the petitioner, the petitioner will not be in a position to effectively submit his reply to the show cause and on this ground alone the impugned order is liable to be set aside. Once the order of the primary authority, i.e., Sub Divisional Officer is held to be bad, order passed by the appellate and revisional authorities will also have to be set aside.

9. Having regard to the above mentioned facts this Court **set aside** the order, dated 11.11.1998, passed by the Sub Divisional Officer, Nalanda, the order, dated 20.10.1999, passed by the District Magistrate, Nalanda, and the order, dated 23.08.2011, passed by the Divisional Commissioner, Patna, and



remits the matter back to the Sub Divisional Officer, concerned, for passing order afresh. The petitioner shall be furnished a copy of the enquiry report and given an opportunity of submitting his explanation afresh. On receipt of the said explanation, the authority, concerned, shall pass necessary orders on merits. It is needless to mention that before passing any order the petitioner shall be given an opportunity of hearing.

10. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. Any order decision taken shall be communicated to the petitioner.

11. With the above directions, this writ petition stands allowed to the extent indicated above.

(A. Abhishek Reddy , J)

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