

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15648 of 2022

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Jai Prakash Singh, son of Devan Singh Resident of Village-Jhakhargarh, P.S.-
Chatapur, District-Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Supaul.
3. The Sub-Divisional Officer, Triveniganj, District-Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv.
For the Respondent/s : Mr. Arvind Ujjwal (SC-4).

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

2 28-08-2023 Heard the parties.

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

“(i)A certiorari for quashing and setting aside the order passed by the Sub-Divisional Officer, Triveniganj and issued vide Memo No. 571 dated 5.9.2022 whereby and whereunder license of the petitioner’s P.D.S. shop bearing licence No. 28/2018 has been cancelled with immediate effect. contained in **Annexure-1**.

(ii)A mandamus commanding the respondents to restore the petitioner’s licence and to make allotment for the same as before.”

3. Learned counsel for the petitioner has stated that the impugned order passed by the Sub-Divisional Officer is non-est in the eye of law as the same has been passed without any



independent application of mind on the dictates of the District Magistrate, who is the appellate authority. Learned counsel has also stated that the Sub-Divisional Officer has passed the order based on the opinion of the Block Supply Officer and the opinion of the Block Supply Officer was also not furnished to the petitioner. The Sub- Divisional Officer has passed the impugned order without adverting to the explanation submitted by the petitioner solely based on the opinion of the Block Supply Officer and on the instructions of the District Magistrate.

4. Learned counsel for the petitioner has relied on the judgement of this Hon'ble Court in C.W.J.C. No. 17055 of 2010 dated 05.04.2012 in support of his case.

5. Per contra learned counsel for the respondents has vehemently opposed the very maintainability of the writ petition and stated that the petitioner has an alternative and effective remedy of filing an appeal before the appellate authority and therefore prayed this Court to dismiss the present writ petition.

6. A perusal of the impugned order shows that the Sub-Divisional Officer has passed the impugned order cancelling the P.D.S. shop licence of the petitioner on two grounds i.e. one on the instructions of the District Magistrate and the second based on the opinion of the Block Supply



Officer. A perusal of the order does not show any independent application of mind of the Sub-Divisional Magistrate and he has simply relied on the opinion of the Block Supply Officer. None of the contentions raised by the petitioner have being adverted to by the Sub-Divisional Officer. Even though the counsel for the respondents has taken a strong objection to the maintainability of the present CWJC and stated that the petitioner has a remedy of filing statutory appeal, it is to be noted that the impugned order is passed at the behest of the District Magistrate, who is none other than the appellate authority. Therefore, no useful purpose could had been achieved by filing the statutory appeal.

7. Having regard to the same, the impugned order is set aside and the matter remanded back to the Sub-Divisional Officer for passing orders afresh duly taking into consideration the explanation submitted by the petitioner. If any material is sought to be relied by the Sub-Divisional Officer, the same shall be provided to the party.

8. It is needless to mention that before passing any order the petitioner shall be put on notice and given an opportunity of hearing. The entire exercise shall be completed within a period of eight weeks from the date of receipt of the



copy of this order.

9. With the above observations, the present writ
petition stands disposed off.

(A. Abhishek Reddy , J)

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