

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14909 of 2023

Vijendra Paswan, Gender-Male, Aged about 53 years, Son of Budhu Paswan,
Resident of village - Mirjawa, P.S.- Triveniganj, District - Supoul.

... .. Petitioner/s

Versus

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

... .. Respondent/s

Appearance :

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

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

2 11-12-2023 Heard learned counsel for the parties.

2. The present Writ Petition has been filled for the
following reliefs:-

“For issuance of appropriate writ/order/direction for granting following reliefs to the petitioner: (i). certiorari for quashing and setting aside the order passed by the Sub-Divisional Officer, Triveniganj and issued vide order dated 17.08.2017 whereby and whereunder license No. 19/91 of the petitioner’s Fair Price Shop has been cancelled with immediate effect and shop of the petitioner has been tagged with nearly P.D.S. shop of one PACS Chairman Sri Gajendra Kumar contained in (Annexure-1). (ii) A mandamus commanding the Respondents to restore the petitioner’s



license as before and to make allotment for the petitioner's shop."

3. Learned counsel appearing on behalf of the petitioner has stated that the show cause notice was not served on the petitioner, at the time of issuing the show cause notice the wife of the petitioner was hospitalized and therefore, the petitioner could not receive the show cause notice. Learned counsel has stated that the authorities concerned did not take any other steps to issue the show cause notice to the petitioner. Learned counsel has further stated that the wife of the petitioner has recovered in the year, 2019 and thereafter due to the COVID-19 the petitioner could not approach the appellate authority challenging the order of cancellation. Learned counsel has stated that he has given a representation on 19.09.2020 to the Collector but till date no orders are passed on the said representation. Therefore, learned counsel seeks indulgence of this Court to permit the petitioner to file a reply to the show cause notice and direct the authorities to pass orders afresh.

4. Per contra the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that this Court cannot condone the delay of six years in approaching this Court and the petitioner has not shown his



bona fides, that and the petitioner has kept quite for the period of six years without filing the appeal and approached this Court belatedly. Therefore, prayed for dismissal of the present writ petition on the ground of laches.

5. Further the learned counsel for the respondents has stated that the petitioner can avail the alternative and efficacious remedy of filing an appeal before the Collector, along with the appeal the petitioner can also file a condone delay petition to condone the delay in approaching the appellate authority.

6. Admittedly, in the present case, the order of cancellation was passed on 17.08.2017, for the reasons best known to the petitioner, the petitioner has not filed any appeal challenging the said order. Moreover the petitioner has not approached this Court within reasonable time. There is no explanation whatsoever given by the petitioner for the delay in approaching this Court after a period of almost six years. Therefore, this Court is not inclined to entertain the present CWJC.

7. However, having regard to the fact that the petitioner has a remedy of filing an appeal, the petitioner is directed to file an appeal along with condone delay petition seeking to condone the delay in approaching the appellate



authority. On such appeal being filed, the authority concerned shall consider the same and also the condone the delay petition on its own merits. The appeal shall be disposed off within a period of eight weeks from the date of filing of the said appeal.

8. With the above direction, the present Writ Petition stands disposed off to the extent indicated.

(A. Abhishek Reddy , J)

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