

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.674 of 2023

Manoranjan Karamkar Son of Sipat Lal Karamkar, Resident of Village -
Mirpur, P.O. - Sontha, P.S. - Rauta, District – Purnia ... Petitioner
Versus

1. The State of Bihar through Principal Secretary Food and Civil Supply
Government of Bihar, Patna.
2. The Principal Secretary Food and Civil Supply, Bihar, Patna.
3. The District Magistrate/Collector, Purnea.
4. The District Supply Officer, Baisha, Purnea.
5. The Sub-Divisional Officer, Baisi, Purnea.
6. The Block Supply Officer, Baisi, Purnea. ... Respondents

Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Adv. with
Mr. Rajiv Ranjan, Adv.
For the Respondents : Mr. S. Raza Ahmad, AAG V

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

3 22-09-2023 Heard the learned counsel for the parties.

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

*(i) For quashing the 27.06.2022 passed order dated in
Supply Revision No.271/2020 by learned Divisional
Commissioner, Purnia by which reject the Revision
and upheld the order dated 04.02.2020 passed in
Supply Appeal Case No.154/2019.*

*(ii) For quashing the order dated 04/02/2020 passed
in Supply Appeal Case No. 154/2019 by learned
Collector, Purnia by which reject the Appeal and
upheld the order Memo No. 225 dated 18/01/2019
without considering the case of petitioner.*

*(iii) For quashing the order dated as contained in
Memo No. 225 dated 18/01/2019 issued and passed
by the Sub divisional officer, Baisi, whereby and
where under the learned Sub divisional Officer, Baisi,
has cancelled the Fair Price shop of the petitioner
under Public Distribution system bearing License No.
12/2016, without considering the showcase reply of
the petitioner, only on the basis of one day closer of
the shop and on the basis of recommendation made by
the Block Supply officer, Baishi.*



(iv) Further for direction to the respondents to restore the supply to the Fair Price shop of the petitioner under Public Distribution system bearing License No. 12/2016.

(v) For any other appropriate relief/ reliefs to which the petitioner is found entitled in the facts and circumstances of this case.

3. Learned counsel for the petitioner has stated that the order of cancellation passed by the Sub Divisional Officer, Baisi, Purnea (Respondent No. 5) is contrary to the well settled principles of law as laid by this Hon'ble Court and the Hon'ble Supreme Court in a catena of cases. Learned counsel has stated that the Respondent No. 5 vide Memo No. 225, dated 18.01.2019, has passed the order of cancellation of license fair price shop of the petitioner solely based on the opinion of the Block Supply Officer, Baisi, Purnea (Respondent No. 6). Learned counsel has stated that the order is bereft of reasons and there is no independent application of mind by the Sub Divisional Officer while passing the said order. That the Sub Divisional Officer has not considered the explanation submitted by the petitioner and passed the order based only on the opinion of the Block Supply Officer. Learned counsel has stated that both the appellate as well as the revisional authorities have not considered the above aspects and passed the orders in a mechanical manner. Learned counsel has, therefore, prayed this



Hon'ble Court to set aside the impugned orders and remand the matter back to the authority concerned for passing order afresh duly taking into consideration the explanation submitted by the petitioner.

4. Per contra, the learned counsel appearing on behalf of the respondents has stated that the present Writ Petition is not maintainable. That the authorities concerned duly taking into consideration the relevant factors and also the allegations made against the petitioner have cancelled the license of the petitioner. Learned counsel has prayed for dismissing the present Writ Petition.

5. A perusal of the order passed by the Sub Divisional Officer cancelling the public distribution system license of the petitioner vide Memo No. 225, dated 18.01.2019, reveals that the order is passed solely based on the opinion of the Block Supply Officer. There is no independent application of mind by the officer concerned while passing the said order, the order is bereft of reasons.

6. This Court as well as the Apex Court, on number of occasions, have held that any authority/Court/quasi judicial authority have to necessarily give reasoning in the order passed by them. Unless reasoning is given in the order, neither the party nor Courts before whom the order is challenged will be in a



position to appreciate as to what has weighed with the said authority either for dismissing or allowing the application of the party. Though the quasi judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial order, yet they are expected to give a reasoned order which should be precise, concisely setting out the reason for allowing or dismissing the contention/application as the case may be.

7. In Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota vs. Shukla and Brothers, reported in **(2010) 4 SCC, 785**, the Hon'ble Supreme Court has held as under:

“..... while exercising the power of judicial review on administrative action and more particularly the judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.....

..... A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer Reasons are the soul of orders Non-recording of reasons could lead to dual infirmities; Firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to



administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. The orders of the court must reflect what weighed with the court in granting or declining the relief claimed by the applicant."

7. Having regard to the above law laid down by the Hon'ble Supreme Court and having regard to the facts and circumstances of the case the impugned order passed by the Sub Divisional Officer vide Memo No. 225, dated 18.01.2019, has to be necessarily set aside, the same is hereby set aside. Once the order of the Sub Divisional Officer is held to be bad and set aside the consequential orders passed by the Appellate Authority as well as the Revisional Authority cannot stand on their own and have to be necessarily set aside and the same are hereby set aside. The matter is remanded back to the Sub Divisional Officer for passing a reasoned order duly taking into consideration the explanation submitted by the petitioner.

8. It is needless to mention that before passing any orders, the party shall be put on notice and given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of two months from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.



9. With the aforesaid directions, this Writ Petition is
allowed to the extent indicated.

(A. Abhishek Reddy , J)

Shamshad/-

U			
---	--	--	--

