

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17472 of 2022

M/S Sanjeet Traders a proprietorship firm having its office at Mahila College Road, Madhubani, through its Proprietor Sanjeet Kumar, aged about 45 years (male), son of Late Gokul Sah, resident of Village Ward No. 1, Laheriyaganj P.O. and P.S. Madhubani, District Madhubani.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
2. The Principal Secretary, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
3. The Agriculture Director, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
4. The District Agriculture Officer, Madhubani.
5. The District Agriculture Co-ordinator, Madhubani.
6. The District Magistrate, Madhubani.
7. The Block Agriculture Officer, Rahika, Madhubani.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate Mr. Avinash Shekhar, Advocate Mr. Vijay Shankar Tiwari, Advocate Mr. Shishir Shwetank Sudarshan, Advocate
For the Respondent/s	:	Mr. Prabhat Kumar, AC to GA-11

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-05-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. The petitioner in the present case is seeking the following reliefs:-

“i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing memo no. 261/3029 dated 24.11.2022 issued by the Respondent District Agriculture Officer, Madhubani whereby the explanation dated 21.10.2022 furnished by the petitioner pursuant to order dated 21.09.2022 passed by this Hon’ble Court in CWJC No. 9057/2022 has been rejected



and the earlier order of cancellation of petitioner's fertiliser license no. CFK20041600540-R/2019-20 contained in memo no. 809 dated 19.05.2022 has been kept intact.

ii) This Hon'ble Court may adjudicate and hold that memo no. 261/3029 dated 24.11.2022 is bad in the eyes of law and violative of the principles of natural justice as the same has been passed in a mechanical manner without application of mind and without even remotely considering the explanation offered by the petitioner in the explanation dated 24.11.2022.

iii) This Hon'ble Court may adjudicate and hold that Respondent District Agriculture Officer being a quasi-judicial authority, was under an obligation to pass a reasoned and speaking order dealing with all the contentions put forth by the petitioner.

iv) This Hon'ble Court may adjudicate and hold that the cancellation of petitioner's fertilizer license is violative of proviso to Clause 31(1)(b) of the Fertiliser Control Order, 1985 as the petitioner has not been afforded the mandatory 30 days period to dispose of the balance stock.

v) This Hon'ble Court may further adjudicate and hold that cancellation of fertilizer license is highly disproportionate to the allegations levelled upon the petitioner.

vi) This Hon'ble Court may further adjudicate and hold that the action of the Respondent District Agriculture Officer is a completely arbitrary exercise of authority/power vested in the Respondents.

vii) To grant any other relief or reliefs for which the petitioner is found entitled in the facts and the circumstances of the case."

3. Mr. Suraj Samdarshi, learned counsel for the petitioner has taken this Court through the orders passed by this Court in the earlier two rounds of litigation in CWJC No. 19439 of 2021 (Annexure '9') and CWJC no. 9057 of 2022 (Annexure '22'). It is his contention that only after the intervention of this



Court, the petitioner was given the documents which he was looking for.

4. It is the case of the petitioner that even as in the name of hearing, the petitioner was given a show cause notice and the District Agriculture Officer has passed the impugned order as contained in Annexure '26' saying that he has given an opportunity of hearing to the petitioner, the fact remains that the District Agriculture Officer has not considered all the submissions of the petitioner. It is his grievance that the grounds raised by the petitioner have not been duly considered by the District Agriculture Officer, therefore, the impugned order as contained in Memo No. 261/3029 dated 24.11.2022 (Annexure '26') is bad in law.

5. On the other hand, learned counsel for the State submits that the impugned order has been passed after following the established procedure of law. It is not a case in which the petitioner is alleging violation of principles of natural justice. In such circumstance, it is submitted that instead of moving this Court directly under Article 226 of the Constitution of India, the petitioner was required to exhaust the statutory remedy of appeal against the order of cancellation of fertilizer licence. In this regard, a specific objection has been raised in



paragraph '14' of the counter affidavit.

6. Learned counsel for the petitioner does not dispute that the petitioner has a statutory remedy of appeal against the impugned order as contained in Annexure '26' to the writ application.

7. Having heard learned counsel for the petitioner and the State, finding that the petitioner has moved this Court without exhausting the statutory remedy of appeal, this Court would not entertain the present writ application.

8. The petitioner, if so advised, may seek his remedy in a statutory appeal before the competent authority within a period of 30 days from today. If any such appeal is filed and a question of limitation arises, the same will be considered keeping in view that the petitioner was pursuing his remedy before this Court.

9. In case, the petitioner applies for any interim relief before the Appellate Authority, the same will be considered expeditiously and within a reasonable time.

10. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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