

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.799 of 2023

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Rupkanti Devi Wife of Santosh Sah, Resident of Village - Barashankar, Block
and P.S. - Patahi, Sub-Division - Pakhridayal, District - East Champaran,
Bihar ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply
Department, Govt. of Bihar, Patna.
2. The District Magistrate-cum-Collector, District - East Champaran, Motihari.
3. The District Supply Officer, Motihari, District - East Champaran, Motihari.
4. The Sub-Divisional Officer, Pakhridayal, District - East Champaran,
Motihari.
5. The Block Supply Officer, Patahi, District - East Champaran, Motihari.
... Respondents

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Appearance :

For the Petitioner : Mr.Vikash Kumar Pankaj, Adv.
For the Respondents : Mr.Arvind Ujjwal, SC IV

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

4 20-09-2023

Heard learned counsel for the parties.

2. The present Writ Petition is filed for the
following relief(s) :

(i) To issue Writ of Certiorari or any other appropriate Writ order to set aside the order contained in Memo No. 1309 dated 12.10.2022 (Annexure- 5) whereby Respondent No. 4 has cancelled the PDS fair price Shop License No. 96/2019 issued to the Petitioner.

(ii) To issue Writ of Certiorari or any other appropriate Writ order to set aside the cryptic show cause notice contained in letter No. 1018 dated 10.08.2022 (Annexure- 1 Petitioner by the Respondent No. 4.) issued to the Petitioner by the Respondent No. 4.

(iii) To issue Writ of Certiorari or any other appropriate Writ order to set aside the recommendations contained in letter No. 53 dated 10.09.2022 (Annexure-4) issued by Respondent



No. 5 without Jurisdiction, to the Respondent No. 4. on the reply dated 15.08.2022 submitted by the Petitioner before Respondent No. 4 in pursuant to aforesaid show cause notice contained in letter No. 1018 dated 10.08.2022 (Annexure-1).

(iv) To issue consequential Writ of Mandamus or any other appropriate Writ order direction directing the Respondents particularly Respondent No. 3 to 5 to immediately restore the aforesaid PDS fair price Shop license with supplies, issued to the Petitioner.

3. Learned counsel for the petitioner has stated that the order passed by the Subdivisional Officer is liable to be set aside on the grounds of violation of principles of natural justice and equity. Learned counsel has stated that the petitioner was not served a copy of the enquiry report along with the show cause notice. Learned counsel has stated that the petitioner pursuant to the show cause notice issued by the Subdivisional Officer has submitted his explanation, but, the authority concerned has rejected the same without adverting to the explanation submitted by the petitioner, except using the words “not satisfactory” no other reasons are given in the impugned order. Learned counsel states that the order is bereft of reasons and the same is liable to set aside.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very



maintainability of the present Writ Petition stating that the petitioner has an alternative and efficacious remedy of approaching the Appellate Authority against the order of cancellation passed by the Subdivisional Officer. Learned counsel has stated that the petitioner may be relegated to the Appellate Authority and a direction may be given to file an appeal. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present Writ Petition.

5. A perusal of the impugned order reveals that the Subdivisional Officer except stating that the explanation submitted by the petitioner is not satisfactory has not given any other reasons for passing the order of cancellation.

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.”



8. Having regard to the above mentioned facts and circumstances, the impugned order is set aside and the matter is remanded back to the Subdivisional Officer for passing order afresh. It is needless to mention that before passing any orders, the petitioner 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 eight weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the petitioner.

9. With the above directions, this Writ Petition stands **allowed** to the extent indicated.

(A. Abhishek Reddy , J)

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