

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1053 of 2023

=====

Ranjeet Kumar Ram, S/o Singheshwar Ram, Resident of village - Binda,
Panchayat - Narauli, P.S. Mushahri, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Sub-Divisional Officer, Muzaffarpur East.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Shankar Kishore Shahi, Advocate
For the Respondent/s : Mr.Arvind Ujjwal (SC 4)

=====

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

Date : 11-09-2023

Heard the learned counsel for the parties.

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

“For quashing order dt. 04.11.2022 passed by the District Magistrate, Muzaffarpur and order dt. 21.05.2021 passed by Sub-Divisional Officer, Muzaffarpur East fully contained in Memo No. 1286 whereby and whereunder the License granted to the petitioner being License No. 26/2018 for carried out the business of a Public Distribution Shop in Panchayat Narauli, Block-Mushahari, District-Muzaffarp was cancelled without assigning any reason without supplying Enquiry Report without consideration of reply of show case”.

3. Learned counsel for the petitioner has stated that the petitioner was initially granted public distribution system (PDS) license under the provisions of the Public Distribution



System (Control) Order vide license bearing No. 26 of 2018. That right from the inception the petitioner has been running the shop without any complaint from any quarter. Learned counsel has stated that the authority inspected his shop on 22.12.2020, submitted a report to the Sub-Divisional Officer. The Sub-Divisional Officer (Respondent No. 3) based on the enquiry report has issued a show cause notice to the petitioner vide Letter No. 517, dated 03.02.2021, granting a period of only three days to submit his explanation.

4. Counsel has further stated that the petitioner has not been furnished with the copy of the enquiry report nor any material relied upon by the authorities along with the show cause notice and the petitioner has submitted his explanation on 05.02.2021. Counsel has stated that the Sub Divisional Officer has passed the order of cancellation vide Memo No. 1286 dated 21.05.2021 without adverting to the explanation submitted by the petitioner.

5. The only reason given in the cancellation order by the Sub Divisional Officer was that the explanation submitted by the petitioner was not satisfactory. Counsel has stated that the petitioner was not given the copy of the enquiry report, neither the names of the consumers who have made the



complaints nor the statements of the complainants were furnished. That as against the order of cancellation the petitioner has preferred an appeal and the appeal was also dismissed in a mechanical manner without advertng to the grounds raised by the petitioner in the appeal. Therefore, prayed this Hon'ble Court to allow the present writ petition and set aside the impugned orders.

6. Per contra, the learned counsel appearing on behalf of the respondents has stated that the petitioner was duly put on notice and given an opportunity of submitting his explanation. After the petitioner has submitted his explanation the order of cancellation was passed by the Sub Divisional Officer. That the authority concerned has followed the procedure as contemplated under the order and there are no procedural lapses committed by the authorities before passing the cancellation order. Learned counsel has also stated that the appellate authority has passed a reasoned order which does not warrant any interference and prayed this Hon'ble Court to dismiss the present writ petition.

7. A perusal of the order passed by the Sub Divisional Officer, i.e., respondent no. 3, shows that the shop of the petitioner was inspected on 22.12.2020 and, thereafter, on the basis of the enquiry report, the respondent no. 3 has issued show



cause notice vide Memo No. 517 dated 03.02.2021 to the petitioner.

8. Admittedly, as seen from the show cause notice, the petitioner was not given the copy of the enquiry report, neither the names of the complainants were furnished nor the statements recorded, if any, of the complainant were supplied to the petitioner.

9. This Court in the judgment reported in **2013(3) PLJR, 249 (Krishna Kumar Srivastava Vrs. the State of Bihar & Ors.)** has held as under :

“This Court has repeatedly made it clear that if a show cause notice is issued to a PDS dealer by the licensing authority on the basis of statement of consumers/beneficiaries attached to the shop in respect of non-supply or inadequate supply of food grains or charging higher amount than prescribed, names of such consumers/beneficiaries should be furnished to the dealer and, if any statement has been made on the basis of which any enquiry report has been submitted, copies of such statement and the report should also accompany the show cause. This basic requirement of fair play in action is only for compliance of Principles of Natural Justice. If the show cause notice is vague and does not contain particulars in support of the allegations and is not accompanied with the relevant materials which may be considered by the licensing authority at the time of passing final orders, the same has to be termed as giving inadequate opportunity to the PDS licence holder.”

10. In **C.W.J.C. No. 19546 of 2019 (Arun**



Chaudhary Vrs. the State of Bihar & Ors.) it has been held as follows :

“..... the learned counsel for the petitioner has shown to this court that though the original order of cancellation of license runs in around three pages but the licensing authority has only recounted the grounds raised by the petitioner and has disposed of those grounds in one line that those are unsatisfactory.

What is the reason for the Licensing Authority to hold such grounds to be unsatisfactory has not been stated.

We do not get any idea from such order as to whether the petitioner was entitled to be retained as a licensee or that the order of cancellation of license was correct on the prevalent set of facts.

Since the defect in the original order cannot be restituted in an appeal for the reasons that the petitioner would not know in his capacity as appellant, what to challenge and on what grounds, the provision of appeal becomes rather otiose.”

11. Having regard to the above law laid down by this Hon’ble Court in the above mentioned cases, this Court is constrained to set aside the orders passed by both the appellate authority as well as the Sub Divisional Officer (Respondent No. 3) and remand the matter back to the Sub Divisional Officer, concerned, for passing order afresh, duly putting the petitioner on notice and supplying him with the copies of the enquiry report, the names of the complainants and also the statements of



the complainant, if any, recorded by the authorities. The petitioner shall be given an opportunity of filing his explanation and also an opportunity of hearing before any orders are passed.

12. The entire exercise shall be completed as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.

13. This writ petition is allowed to the extent indicated above.

(A. Abhishek Reddy , J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.09.2023
Transmission Date	

