

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1751 of 2024

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Raj Kumar Paswan Son of- Ramdev Paswan, Resident of Village-Khagaur,
P.S.- Lakhisarai, Kiul rs, District-Lakhisarai. ... Petitioner

Versus

1. The State of Bihar Through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
 2. The Divisional Commissioner, Munger
 3. The District Magistrate, Lakhisarai
 4. The Sub Divisional Officer, Lakhisarai
 5. The Block Supply Officer, Lakhisarai. ... Respondents
- =====

Appearance :

For the Petitioner : Mr. N.K. Agarwal, Sr. Adv. with
Ms Diksha Kumari, Adv.
For the Respondents : Mr. Government Pleader (16)

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

3 13-05-2024 Heard the parties.

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

- a. For issuance of a writ in the nature of Certiorari for quashing the Order dated 10.04.2023 passed by the Sub-Divisional Officer on remission from the Hon'ble High Court, Patna vide C.W.J.C. No. 8516 of 2019 dated 02.01.2023, by which the Learned S.D.O. has again cancelled the petitioner's license because the order of the S.D.O. is a non-speaking order and the same have been passed in violation of the principles of Natural Justice, in as much as the Impugned Orders have been passed without considering the facts and circumstances of the case.*
- b. A mandamus commanding the Respondents to restore the petitioner's license as before and to make*



allotment for the petitioner's shop.

c. For issuance of any other relief or relief(s) for which the petitioner is entitled in the fact and circumstances of the present case may be granted to him.

3. Learned counsel for the petitioner has stated that this Hon'ble Court vide order passed in C.W.J.C. No. 8516 of 2019, dated 02.01.2023 has set aside the appellate order of revision and remanded the matter back to the Sub Divisional Officer, i.e., Respondent No. 4 herein to consider the matter afresh and pass a reasoned order. However, the Sub Divisional Officer without adverting to the explanation submitted by the petitioner has simply stated that the earlier order, dated 07.12.2013, passed by his predecessor holds good. Learned counsel has stated that the order passed by the Sub Divisional Officer is contrary to the judgment of this Hon'ble Court and, therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authority concerned for passing 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 and stated that the petitioner if he is so aggrieved by the order of the Sub



Divisional Officer is having an alternative and efficacious remedy of filing an appeal before the District Magistrate. That the petitioner by-passing the provision of Appeal has approached this Hon'ble Court and the same is not permissible. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present Writ Petition.

5. A perusal of the pleadings reveal that on an earlier occasion the Sub Divisional Officer has passed the order of cancellation on 07.12.2013 vide Letter No. 693 and the petitioner thereafter preferred an Appeal No. 24 of 2013-14. The said appeal was also dismissed on 10.09.2014 affirming the order of the Sub Divisional Officer, dated 07.12.2013. The petitioner aggrieved by the order of the Appellate Authority has preferred a revision before the Divisional Commissioner and the Revision was also dismissed on 05.11.2014. Aggrieved by the said order of dismissal of Revision passed by the Divisional Commissioner, the petitioner has preferred C.W.J.C. No. 4098 of 2015 before this Hon'ble Court and this Court vide judgment, dated 25.04.2017, has set aside the order, dated 05.11.2014, passed by the Divisional Commissioner and remanded the matter back to the said authority. However, the Divisional Commissioner has again passed an order on 30.11.2018 in



Supply Revision No. 64 of 2017 dismissing the revision without recording any reasons. Aggrieved thereof, the petitioner has again preferred C.W.J.C. No. 8516 of 2019 before this Hon'ble Court and this Court vide order, dated 02.01.2023m while setting aside the order passed by the Divisional Commissioner, dated 30.11.2018, has remanded the matter back to the Sub Divisional Officer for passing orders afresh. The order passed by this Hon'ble Court in C.W.J.C. No. 8516 of 2019, dated 02.01.2023, read as follows :

Considering that the petitioner ought to get a chance to explain his cause, we set aside the order passed in revision dated 30.11.2018 and remit the matter now to the licensing authority to afford to the petitioner an opportunity of explaining his cause against the same notice which was served upon him in the first instance for which he would be given reasonable time of thirty days, to be counted from the date of receipt/production of a copy of this order. After receiving the reply of the petitioner against the show-cause notice issued to him earlier, a final order shall be passed by the licensing authority giving reasons in support of his decision.

6. A perusal of the impugned order passed by the Sub Divisional Officer, dated 10.04.2023, vide Memo No. 505, reveals that the Sub Divisional Officer instead of complying



with the order of this Court has simply stated that the earlier order passed by the Sub Divisional Officer, dated 07.12.2013, in Letter No. 693 holds good. The order passed by the Sub Divisional Officer cannot be sustained, once the orders of Revisional authority are set aside by this Hon'ble High Court and the matter remitted back to the Sub Divisional Officer concerned for passing orders afresh. It is deemed that the earlier orders passed by the Appellate Authority and also the Sub Divisional authority are also set aside. Therefore, the question of holding that the earlier order, dated 07.12.2013, passed by his predecessor stands good does not arise. The impugned order on this count is liable to be set aside as the same is against the direction passed by this Court in C.W.J.C. No. 8516 of 2019, dated 02.01.2023.

7. Having regard to the above impugned order, dated 10.04.2023, is set aside and the matter is remitted back to the authority concerned for passing orders afresh duly taking into consideration the explanation submitted by the petitioner. The authority shall bear in mind that the order, dated 07.12.2013, in Letter No. 693 passed by his predecessor is no longer in subsistence and, therefore, no reliance on the same should be placed.



8. 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. Needless to mention that before passing any orders the petitioner shall be given an opportunity of hearing. Any orders passed shall be communicated to the petitioner.

9. With the above directions, the present Writ Petition stands **disposed of**.

(A. Abhishek Reddy , J)

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