

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1721 of 2019

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Nagendra Tiwari Son of Sudama Tiwari, Resident of Village- Bhawalpur,
P.S.- Marhaurah, District- Saran, Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar and ors through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Commissioner, Saran Division, Chapra.
3. The District Magistrate, Saran, Chapra, District- Saran.
4. The Sub-Divisional Officer, Marhaurah, Saran, District- Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv.
For the Respondent/s : Mr.S. Raza Ahmad (AAG5)

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

3 23-01-2024 Heard learned counsel for the parties.

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

“A. Certiorary for quashing and setting aside the order passed by the Sub-Divisional Officer, Marhaurah, Saran vide Memo No. 3100 dated 24.09.2012 whereby and whereunder license of the petitioner’s Fair Price Shop bearing no. 57/2007 has been cancelled contained in **Annexure-1** and quashing and setting aside the order dated 13.08.2015 passed by the learned District Magistrate, Saran, Chapra in Supply Appeal No. 124/2012 contained in **Annexure-4** whereby and whereunder appeal filed by the petitioner against the cancellation order has been rejected and quashing and setting aside the order dated 30.06.2018 passed by the learned Commissioner, Saran Division, Chapra in Supply Revision Case No. 242/2015



contained in **Annexure-5** whereby and whereunder revision filed by the petitioner against the appellate order has been rejected.

B. A mandamus commanding the respondents to restore the petitioner's licence as before and to make allotment for the petitioner's shop.

C. Any other relief or reliefs for which petitioner may be found entitled in the facts and circumstances of the present case may be granted to him."

3. Learned counsel appearing on behalf of the petitioner has stated that Sub-Divisional Officer, Saran, District, Saran *vide* order dated 24.09.2012 has cancelled the licence of the petitioner only on the ground that the petitioner has not submitted his explanation to the show cause notice. That the Sub-Divisional Officer did not pass the order on merits of the case and passed the order in a mechanical manner.

4. Learned counsel appearing on behalf of the petitioner has stated that the matter is fairly contended by the order of a Division Bench of this Hon'ble Court passed in L.P.A. No. 861 of 2004 dated 06.09.2004, wherein this Hon'ble Court has held that even if the licence holder does not file any explanation to the Show Cause Notice, the Authority concerned are legally bound to pass the orders on merits. Therefore, the learned counsel seeks the indulgence of this Court to set aside the impugned orders and remand the matter back to the



authority concerned for passing orders afresh on merits.

5. Per contra, the learned the learned counsel appearing on behalf of the respondents while conceding to the Judgment of this Hon'ble Court referred above has stated that he has no objection for setting aside the impugned orders and remand the matter back to the authority concerned for passing orders afresh.

6. Having regard to the above made submissions and also the law laid down in LPA No. 861 of 2004 dated 06.09.2004, the impugned order dated 24.09.2012 is set aside and the matter is remanded back to the Sub-Divisional Officer, Muzaffarpur, (Respondent No. 4) for passing a reasoned order afresh strictly on merits. The authority concerned shall give an opportunity to the petitioner to file his explanation and then pass the order duly taking into consideration the explanation submitted by the petitioner.

7. It is needless to mention that before passing any order, the petitioner shall be given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possibly preferably within a period of eight weeks from the date of receipt of the copy of this order. Any order passed shall be communicated to the party.



8. With the above directions, the present writ
petition stands disposed off.

(A. Abhishek Reddy , J)

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