

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2485 of 2024

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Lakshaman Sah S/o Sahdev Sah, Resident of village - Vishwanathpur, Ward
No. 6, P.S. - Dumra, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection
Department, Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, Sitamarhi.
3. The Sub Divisional Officer, Sadar, District - Sitamarhi.
4. The Block Supply Officer, Dumra, District - Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari
For the Respondent/s : Mr. Government Pleader (20)

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

2 08-04-2024 Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

relief(s):-

*“That the present writ
application is being filed on behalf of the
petitioner for setting aside the order
contained in Memo No. 799 dated
06.11.2023 by which the PDS license of
the petitioner being License No. 46/2007
has been cancelled by the Learned
S.D.O. Sitamarhi Sadar-cum-Licensing
Authority and further be please to restore*



the license and supply of the petitioner.”

3. Learned counsel has assailed the impugned order passed by the Sub Divisional Officer on three grounds. Firstly on the ground that the Sub Divisional Officer did not take into consideration the explanation submitted by the petitioner and has simply stated in the order that the explanation submitted by the petitioner to the show cause notice is not satisfactory. Secondly on the ground that the authority concerned has taken a totally new ground for cancelling the license of the petitioner, which was not given in the show cause notice issued to the petitioner. Thirdly on the ground that the copy of the enquiry report is not enclosed to the show cause notice. That the same are violative of the principles of natural justice and equity and therefore liable to be set aside.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the present writ petition and stated that the petitioner has an alternative and efficacious remedy of filing an appeal before the District Magistrate. That the writ petition is liable to be dismissed on this ground alone. That the petitioner without availing the alternative remedy of appeal has approached this Hon'ble Court by way of the present C.W.J.C. and prayed for dismissing the



C.W.J.C.

5. Admittedly as seen from the record, the impugned order is passed by the authority concerned on 06.11.2023, the order does not reveal that the explanation submitted by the petitioner has been considered. The authority has simply stated that the explanation submitted by the petitioner is not satisfactory. This court on a number of occasions has time and again reiterated that unless and until the authority concerned which passes the order give reasons in the order, the superior authority/courts cannot fathom the reasons for passing the said order. The authority is obligated to give the reasons in the order, unless and until the reasons are given, neither the petitioner nor the superior forums before whom the order is assailed will be in a position to know what has weighed with the authority while passing the said order. That in so far as the second ground raised by the petitioner is that the authority has taken a totally new ground for passing the impugned order. It is to be noted that this Hon'ble Court in C.W.J.C. No. 4446 of 2019 has held as under:-

“..... when fresh allegations had come against the petitioner a fresh opportunity to show cause may be granted.”

Further the non supply of the enquiry report along



with the Show Cause notice has being held to be violative of principles of natural justice and equity.

6. Having regard to the above mentioned submissions and the judgment of the coordinate Bench referred above, this Court is of the opinion that the impugned order has to be set aside as being violative of principles of natural justice and equity and the same accordingly set aside. The matter is remanded back to the Respondent No. 2 for passing orders afresh. The Respondent No. 2 shall issue a fresh show cause notice specifying the allegations made against the petitioner. If any material is sought to be relied by the authority concerned, the petitioner shall be supplied with the copy of the same along with the show cause notice and an explanation called for. After receipt of the explanation the authority shall pass a reasoned order.

7. It is needless to mention that before passing any orders, the petitioner shall be put 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.

8. With the above directions, the writ petition stands



allowed to the extent indicated above.

(A. Abhishek Reddy , J)

Gauravkr/-

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