

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2302 of 2024

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Jay Shankar Ram S/o Ganesh Ram, Resident of Village Gajpura, P.O.-
Roopdi, P.S.- Mufassil District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food, Civil Supplies and Consumer Protection Department, Government of Bihar, Patna- 800001.
2. The Principal Secretary, Food, Civil Supplies and Consumer Protection Department, Government of Bihar, Patna- 800001.
3. The District Magistrate, East Champaran, Motihari.
4. The District Supply Officer, East Champaran, Motihari.
5. The Sub-Divisional Officer, Sadar, Motihari.
6. The Block Supply Officer, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sangeet Deokuliar, Adv.
For the Respondent/s : Mr. Government Pleader (20)

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

6 20-09-2024 The only grievance of the petitioner is that the authority concerned has passed the impugned order of cancellation dated 13.01.2023 (Annexure- P/10) without putting the petitioner on show cause notice and giving him an opportunity of hearing.

2. Learned counsel for the petitioner has stated that the act of the authorities in not issuing any show cause notice to the petitioner before passing the orders of cancellation is not only contrary to the provisions of the Bihar Targeted Public Distribution System (Control) Order- 2016 but also against the



principles of natural justice and equity. Learned counsel has also stated that the petitioner has been giving several representations to the authority concerned for correction of the EPOS machine, the same has till date not being done. Learned counsel for the petitioner has stated that though the petitioner has taken a specific ground in the writ petition stating that no show cause notice was issued before passing the impugned order, the same has not been denied in the counter affidavit filed by the respondents. Learned counsel has, 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 duly putting the petitioner on show cause notice and granting him sufficient time to file his explanation.

3. Per contra, the learned counsel appearing on behalf of the respondents has stated that the writ petition filed by the petitioner is not maintainable as the order impugned in present writ petition is an appealable order. Learned counsel has stated that the petitioner without availing the remedy of appeal has straightaway approached this Court and, therefore, the writ petition is liable to be dismissed on this ground alone. When queried by this Court, learned counsel for the respondent-State has stated that there is no record to show that the petitioner was



put on notice prior to the passing order of cancellation dated 13.01.2023 (Annexure- P/10).

4. Having regard to the above made submissions without going into the merits or demerits of the case, the present writ petition is disposed of on the ground that the impugned order of cancellation was passed without issuing any show cause notice to the petitioner calling for his explanation. The impugned order is accordingly set aside and the matter is remitted back to the Sub Divisional Officer, Sadar, Motihari directing him to issue a show cause notice to the petitioner by granting sufficient time to file his explanation. On receipt of the explanation within the stipulated time, the authority concerned shall pass a reasoned order duly taking into consideration the explanation submitted by the petitioner. It is needless to mention before passing any order the petitioner shall be given an opportunity of hearing. The entire exercise to be completed as expeditiously as possible 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 petitioner.

5. That in so far as the grievance of the petitioner that the reading in the E-POS machine is not being corrected, the petitioner is directed to give a fresh representation to the Sub



Divisional Officer ventilating his grievance and on such representation being given, the authority concerned shall verify the same and take necessary remedial measures.

6. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

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