

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5117 of 2023

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Suresh Singh Son of Shri Mahavir Singh, Resident of Village, Panchayat - Babhangama, Block - Bihpur, P.S. - Bihpur, District - Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Bhagalpur.
3. The District Magistrate, Bhagalpur.
4. The Sub Divisional Officer, Naugachia, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Rajdeep, Adv.
For the Respondent/s : Mr. S. Raza Ahmad (Aag5)

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

6 26-09-2024 Heard learned counsel for the parties.

2. The present Writ Petition has been filled for the following reliefs:-

“i. For issuance of a writ in the nature of Certiorari for quashing the order dated 21.09.2022 passed in Supply Revision No. 12/2022-23 by the Divisional Commissioner, which was filed against the order of the District Magistrate, Bhagalpur, dismissing the appeal by order dated 31.03.2022 filed after order dated 17.11.2016 of the Sub-Divisional Officer, Navgachhia, Bhagalpur by which P.D.S. license No. 204/85 of the petitioner was cancelled is liable to be set-aside as same has been passed in violation of principles of natural justice, in as much as the Impugned Order has been passed without considering the facts and circumstances of the case.

II. For issuance of any other relief or relief(s) for which the petitioner is entitled for.”

3. Learned counsel for the petitioner submits that the



solitary ground given in the show cause notice dated 12.07.2016 vide Lettero No. 353 for cancelling the PDS licence of the petitioner was that a First Information Report (F.I.R.) bearing P.S. Case No. 259 of 2016 dated 23.07.2016 had been instituted against the petitioner. Similarly, the impugned order has been passed on the sole ground of institution of the aforesaid FIR against the petitioner.

4. Learned counsel for the respondents appears and has been heard.

5. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. A perusal of the PDS. (Control) Order, 2001 read with Rule 7 of the notification in G.S.R. No. 1 dated 20.02.2007 makes it clear that mere institution of a First Information Report would not constitute a valid ground for cancellation of the PDS licence. This view finds support from the decision of this Court in *Umesh Ram vs. The State of Bihar and others, AIR 2014 Patna 113* as well. Further, it is to be noted that the names of the beneficiaries who have made the complaint has not been furnished to the petitioner neither he was given an opportunity of examining them. This Court in catena of cases time and again held that non-furnishing of the names of the beneficiaries who



have made the complaint and non-examining them to redress the veracity of their claims is bad in law therefore, on this ground also the impugned orders are liable to be set aside.

6. In view of the above, the impugned order dated 17.11.2016 (Annexure-P/3) is hereby quashed and consequently the appellate order dated 31.03.2022 (Annexure-P/4) and revisional authority order dated 21.09.2022 (Annexure-P/5) is also set aside.

7. Needless to say, supplies to the petitioner shall be restored without delay.

8. It is made clear that, in case the petitioner is subsequently convicted in the criminal case instituted against him, thereafter, the authorities are free to take necessary action in accordance with law.

9. With the above directions, the Writ Petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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