

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5382 of 2024

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Bhaiswan Primary Agriculture Credit Society, Masaurhi, Patna through its Chairman Lal Bihari Prasad @ Lal Bihari aged about 63 years, Male, S/o Ramcharitra Prasad, Resident of Village-Pakri, P.O.- Bhaiswan, P.S.- Masaurhi, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Collector, Patna.
3. The Sub-Divisional Officer-cum-Licensing Authority, Masaurhi, Patna.
4. The Block Supply Officer, Masaurhi, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate.

For the Respondent/s : Mr. Standing Counsel-11.

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

2 26-04-2024 Heard learned counsel for the parties.

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

“(i) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of certiorari for quashing the order contained in Memo No. 436/Aa dated 27.12.2023 passed by the Learned Sub-Divisional Officer, Masaurhi-cum-Licensing Authority by which he has cancelled the license of the petitioner being License No. 113/2016.

(ii) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of mandamus commanding the respondents to restore the license of the petitioner being License No. 113/2016.”

3. Learned counsel appearing on behalf of the



petitioner has stated that Sub-Divisional Officer-cum- Licensing Authority, Masaurhi, Patna *vide* order dated 27.12.2023 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 27.12.2023 is set aside and the matter is remanded back to the Sub-Divisional Officer, Masaurhi, Patna, (Respondent No. 3) 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 of** to the extent indicated.

(A. Abhishek Reddy, J)

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