

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5087 of 2024

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Suresh Paswan Son of Sukul Paswan Resident of Village- Paigambarpur
Kolhua, Police Station- Ahiyapur, Block Kanti, Panchayat- Paigambarpur,
District Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Civil Supply
Department, Old Secretariat, Patna.
2. The Secretary, Food and Civil Supply Department, Old Secretariat, Patna.
3. The District Magistrate, Muzaffarpur.
4. The Sub-Divisional Officer, West Muzaffarpur.
5. The Incharge Block Supply Officer, Kanti, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. Sanjeet Kumar, Adv.
For the State : Mr. Ajay Behari Sinha, GA-8

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

3 20-08-2024 Heard the learned counsel for the parties.

The present writ petition has been filed for the
following reliefs:-

*“That this is an application for
quashing of the order contained in Memo No.
517 dated 17.05.2021 passed by the Sub-
Divisional Officer, West, Muzaffarpur whereby
and where under the license of the petitioner for
Public Distribution Shop situated at Panchayat-
Paigambarpur Kolhua, Block-Kanti, bearing
License No. 23060030/16 has been cancelled
and the monthly allotment of the shop has been
stopped, on the basis of an enquiry report
submitted by the Incharge Block Supply Officer,*



Kanti, copy of which was never supplied to the petitioner, and also without serving any show-cause notice to the petitioner, the order of cancellation has been passed in complete violation of the rules of natural justice.

It is stated that in the aforesaid enquiry, the petitioner was neither asked to participate nor a copy of the same was supplied to him, which is the basis of order of cancellation dated 17.05.2021.”

3. Learned counsel appearing on behalf of the petitioner has stated that Sub-Divisional Officer (West), Muzaffarpur, vide order dated 17.05.2021 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 17.05.2021 is set aside and the matter is remanded back to the Sub-Divisional Officer (West), 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 of

(A. Abhishek Reddy , J)

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