

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7238 of 2023

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Rajendra Mehta @ Rajendra Chaudhary S/o Mahabir Chaudhary Resident of
Village-Uman Bigha, Post Office- Kurkihar, P.S. Wazirganj, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Good and Consumer Protection Department, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Gaya.
3. The Sub-Divisional Officer, Sadar, Gaya.
4. The Block- Supply Officer, Wazirganj, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand
For the Respondent/s : Mr. Arvind Ujjwal (Sc4)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

6 09-01-2024 Heard the learned counsels for the parties.

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

“(i) Order dated 19.05.2022 passed by Learned Commissioner Magadh Division, Gaya in Supply Revision No. 225/2018 whereby and whereunder the Revision preferred against the order dated 18.6.2012 in Supply Appeal No. 46/2004 was dismissed.

(ii) Order dated 18.06.2012 passed by Learned Collector Gaya in Supply Appeal No. 46/2004 was by which appeal preferred by petitioner against the order of cancellation of License dt. 6.9.04 was rejected.

(iii) Order dt. 6.9.2004



passed by Learned S.D.O Sadar Gaya by which the License granted to the petitioner for running a PDS shop in village Uman Bigha, Block Wazirganj with the District Gaya was cancelled.”

3. Learned counsel for the petitioner has stated that the primary authority i.e. SDO, Sadar, Gaya has passed the order without taking into consideration the explanation submitted by the petitioner to the show cause notice. That the concerned SDO has passed a cryptic order in a mechanical manner holding that the explanation submitted by the petitioner is “not satisfactory” except stating that the explanation is not satisfactory, the concerned SDO has not given any other reason for cancelling the license of the petitioner. Learned counsel has stated that this Hon’ble Court in a catena of judgments held that unless and until a reasoned order is passed neither the Appellate Authority nor the Superior Courts will be in a position to know what has weighed with the authority while passing the said order. Learned counsel has stated that the impugned order is liable to be set aside as the same is bereft of any reason. Learned counsel has stated the copy of the enquiry report has also not been submitted to the petitioner. Further, it is stated that even though the petitioner has preferred an appeal and revision before the concerned authorities, the said authorities have also not dealt with the matter in a pragmatic manner and passed the same



order in a mechanical manner dismissing the appeal and revision filed by the petitioner. Therefore, learned counsel has prayed that the Hon'ble Court may be pleased to set aside the impugned order and remand the matter back to the primary authority for passing order afresh duly taking into consideration the explanation submitted by the petitioner.

4. *Per contra*, learned counsel appearing on behalf of the respondents has stated that even though the order passed by the concerned SDO is in a single line, the Appellate Authority as well as the Revisional Authority have taken note of the fact and passed a reasoned order therefore, nothing remains in the present writ petition to be adjudicated upon. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the order passed by the concerned SDO reveals that excepting stating that the explanation submitted by the petitioner is not satisfactory no other reason has been given by the said order. This Court as well as the Hon'ble Supreme Court in a catena of cases has held that unless and until the authorities concerned passes a reasoned order, the Appellate as well as the Superior Courts will not be in a position to know what has weighed with the authority and adjudicate the



matter in effective manner. This Court vide order dated 29.08.2023 in CWJC No. 13487 of 2018 has held as under;

“..... the impugned action is not sustainable inasmuch as the petitioner gave a detailed explanation and justification against the proposed action, as is contained in Anneuxre-06, and in a cryptic manner, without considering the explanation and defence of the petitioner, his license has been cancelled. This amounts to violation of principles of natural justice inasmuch as the non-application of mind and passing an order adverse to or prejudice to a person without considering his defence is also a facet and the requirement of principles of natural justice and this having not been followed.....”

6. Once it is held that the order passed by the SDO is bad, the order passed by the Appellate Authority as well as the Revisional Authority have no legs to stand on their own and have to be necessarily set aside.

7. Having regard to the same, the impugned order passed by the Revisional Authority, Appellate Authority as well as concerned SDO are set aside and the matter is remanded back to the concerned SDO for passing orders afresh. The authority concerned is directed to furnish a copy of the enquiry report giving reasonable time to the petitioner to file fresh explanation to show cause notice with a stipulated time. The authority shall pass a reasoned order and complete the entire exercise within a period of eight weeks from the date of receipt of a copy of this



order. It is needless to mention that before passing any order, the petitioner shall be put on notice and given an opportunity of hearing. Any order passed shall be communicated to the petitioner.

8. With the above direction, the present writ petition stands disposed off.

(A. Abhishek Reddy, J)

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