

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.167 of 2022

In

Civil Writ Jurisdiction Case No.8159 of 2020

Shiv Shankar Singh @ Shankar Singh S/o Ramvriksh Singh Resident of
Village- Tarari, P.S.- Konch, District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Gaya.
4. The Licensing Officer-cum-Sub Divisional Officer, Tekari, Gaya.
5. The Block Supply Officer, Konch, Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bhaskar Shankar, Advocate

For the Respondent/s : Mr. S. Raza Ahmad, AAG- 5

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 03-04-2024

We have heard learned Advocate for the appellant and the learned Government Advocate representing the State. The order/judgment of this Court dated 07.04.2021 passed by the Learned Single Judge in CWJC 8159 of 2020, whereby the challenge of the writ petitioner against the cancellation of his license for running a fair price shop vide no. 68/2018 under the provision of Bihar Targeted Public Distribution System (Control) Order, 2016 has not found favour, leading to the above appeal against the dismissal of the writ petition.

2. The Learned Advocate representing the writ



petitioner-appellant herein while questioning the orders/judgment of the learned Single Judge has submitted that from the record it would be manifest that the writ petitioner has been allowed only three days time to file reply to the show cause notice and thus, he has been denied sufficient opportunity to defend his case. That apart the writ petitioner was also denied his right of hearing before passing the impugned order of cancellation of license, for running a fair price shop and for the said reason, the impugned action of the respondents required interference, but the learned Single Judge failed to consider the same and rejected the contention of the petitioner.

3. It was also argued before us that the respondent authority has failed to show any violation by the writ petitioner of any terms of license or any provision under the control order or the Act which could have attracted the power of cancellation of license.

4. On the other hand, learned Advocate for the State referring to the order/judgment passed by the learned Single Judge has submitted that each of the contention of the petitioner has been explicitly dealt with while dismissing the writ petition.

5. The Government Advocate further drew the attention of this Court to the fact that besides the aforesaid facts there is a delay of three hundred thirty eight days in preferring



the present Letters Patent Appeal and no plausible reason except the plea of Covid-19 pandemic has been assigned.

6. Having heard the rival submissions and careful consideration of the order/judgment of the learned Single Judge, this Court finds that on complaints received by the licensing authority, an enquiry was conducted surfacing irregularities and corrupt practices against the petitioner, who was involved in the Public Distribution System of essential foodgrains, while the entire nation was facing the wrath and shock of Covid-19 pandemic.

7. The enquiry report which is the part of the show cause notice reflects that the beneficiaries who were interrogated, disclosed that the petitioner was not supplying the foodgrains and many of them had not received the same for certain period. Some of the beneficiaries also made allegation that the writ petitioner was found to indulge in corrupt practice of charging more amount for supply of kerosene oil and other articles than the fixed amount.

8. The enquiry report led to issuance of show cause notice, asking the writ petitioner to submit his reply within three days, which was duly replied to by the writ petitioner. At no point of time the petitioner prayed for any additional time to file a proper and adequate reply nor does the show cause reply reflects any such prayer.



9. All the more, the learned Single Judge has taken note of the fact that the show cause reply runs into fifty-two pages, containing various enclosures, dealt with point wise charges as contained in show cause notice. The show cause notice and the explanation/reply of the petitioner is produced as Annexure 2 and 3 to the writ petition. In such premise, the writ petitioner-appellant shall not be allowed to take the plea of prejudice caused to him, for reason only of insufficient time to reply or make a defence.

10. The learned Single Judge while negating the prayer of the writ petitioner, has also found that the impugned order of cancellation of license for running a fair price shop, is based on the substantial materials. The order is also speaking, reasoned and satisfies the requirement of principles of natural justice. The licensing authority has considered in detail the points taken by the petitioner in his reply to the show cause notice. In such view of the matter, the learned Single Judge has not found any perversity or illegality, requiring the Court's interference in exercise of the power of judicial review under Article 226 of the Constitution of India.

11. It would be worth noting that judicial review is not an appeal from a decision but a review of the manner in which decision is made. It is meant to ensure that the delinquent receives fair treatment and not to ensure that the conclusion,



which the authority reaches, is necessarily correct in view of the opinion of the Court or Tribunal. Thus, this Court cannot appreciate the facts but, has to confine itself as to whether the relevant rules have been followed or not to reach the conclusion; or whether the relevant material was taken into consideration and extraneous materials have been considered or whether the authority has exceeded its jurisdiction or not exercised the jurisdiction which was vested in him or has violated the principles of natural justice.

12. This Court does not find any material suggesting any error either in the order of cancellation of fair price shop or the order passed by the learned Single Judge.

13. The present Letters Patent Appeal sans any merit, accordingly is dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

supratim/-

AFR/NAFR	NAFR
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