

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8258 of 2023

=====

Sita Devi, Wife of Vijay Prasad Gupta, Resident of village and Post -
Singhare, P.S. - Dulhin Bazar, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Patna.
3. The S.D.O Paliganj, Patna.
4. The Block Supply Officer, Dulhin Bazar, Paliganj, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Adv. Mr. Vijay Anand, Adv. Mr. Roop Kishan, Adv. Ms. D Kumari, Adv.
For the Respondent/s	:	Mr. Arvind Ujjwal (SC 4)

=====

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

9 30-09-2024 Heard the learned counsels for the parties.

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

“..... for setting aside the order dated 14.01.2023 passed by District Magistrate, Patna in Supply Appeal No. 35/21- 22 whereby and whereunder the appeal preferred by the petitioner against the order dated 4.9.2021 was dismissed and affirming the order of cancellation of PDS license of the petitioner dated 4.9.2021 issue under the signature of S.D.O. Paliganj fully contained in Memo No. 466.”

3. Learned counsel appearing on behalf of the



petitioner has stated that the petitioner has submitted his explanation to the said show cause notice duly enclosing the affidavits of the consumers who have purported to have made a complaint against the petitioner but the Sub-Divisional Officer has not consider the same while passing the impugned order. Learned counsel has stated that aggrieved by the orders of cancellation passed by the Sub-Divisional Officer, the petitioner has preferred statutory appeal before the concerned authority but the appellate authority has also dismissed the appeal in a mechanical manner without adverting to the above stated facts. This Court in CWJC No. 2477 of 2019 vide order dated 29.04.2019 has held as under;

“The petitioner submitted his reply along with the affidavit(s) of the consumers but those affidavits were not accepted by the Sub-Divisional Officer, Nimchak Bathani, Gaya saying that those affidavit(s) have been managed. In the opinion of this Court, once the petitioner was able to place on record the affidavit(s) of the consumers, the veracity of the complaint were required to be examined by conducting necessary verification by the Sub-Divisional Officer and only thereupon an independent view of the matter could have been taken. It has not been done in the present case. For these reasons the impugned order is liable to be held bad.”

4. As seen from the record, the officer concerned has



not conducted any enquiry to test the veracity of the complaints made by the consumers. Moreover, the officer has not taken into consideration the affidavits of the consumers submitted by the petitioner. There is no evidence to substantiate the allegations made against the petitioner through independent witness or any consumers, the authorities concerned ought to have examined the consumer and given an opportunity to the petitioner to cross-examine the consumers. However, in this case, the order of the appellate authority is passed in a mechanical manner without advertng to any of the grounds raised by the petitioner in the appeal.

5. Having regard to the above made submissions, this Court is of the opinion that the impugned orders are liable to be set aside and the matter remanded back to the Sub-Divisional Officer concerned for passing orders afresh duly taking into consideration the explanations submitted by the petitioner along with the affidavits of the consumers.

6. Accordingly, the orders are set aside and the writ petition is allowed to the extent indicated above setting aside the orders passed by the Appellate Authority dated 14.01.2023 and that of the Sub-Divisional Officer dated 04.09.2021. The Sub-Divisional Officer concerned shall put the petitioner on notice



and duly giving him an opportunity of leading any evidence, the matter shall be decided on merits in accordance with law. The Sub-Divisional Officer concerned shall endeavor to see that the case is disposed off as expeditiously as possible preferably within a period of ten 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 given an opportunity of hearing. Any order passed shall be communicated to the parties.

7. With the above direction, the present writ petition stands allowed.

(A. Abhishek Reddy, J)

Bhardwaj/-

U			
---	--	--	--

