

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7692 of 2023

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Manu Mishra, Son of Uma Shankar Mishra, Resident of Village Tirpurva P.S.
Sikaroul District-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Agriculture Department Bihar, Patna.
2. Assistant Secretary, Agriculture Department Bihar, Patna,
3. Joint Director (Agriculture) Patna, Division, Patna.
4. District Agriculture Officer, Buxar, District Buxar.
5. Block Agriculture Officer Itarhi (Buxar) District-Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anand Kumar Ojha, Adv. Ms. Daizy Kumari, Adv.
For the Respondent/s	:	Mr. Raghwanand (GA 11) Mr. Pratik Kumar, AC to GA 11

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

7 18-11-2024 Heard learned counsel for the parties.

2. The present Writ Petition has been filled for the following reliefs:-

“i. For issuance of an appropriate writ in the nature of certiorari for quashing the letter dated 14.02.2023 vide Memo no. 416 passed in Case (Appeal) No. 03/ 2022-23 passed by learned Joint Director (Agriculture) Patna Division Patna (contained in Annexure-6) by which learned Appellate Court dismissed the Appeal and confirmed the order dated 27.7.2022 vide memo no. 2107 passed in order no.154/ 2022 passed by learned District Agriculture Officer Buxar by which the



retail Fertilizer licence no. CFK 30071502572/18/ RR/2020 dated 11.09.2020 (contained in Annexure-4) was called without appreciating the facts and circumstances of the case.

ii. For issuance of appropriate writ in the nature of Mandamus directing the respondent authorities to revive the retail Fertilizer licence vide licence no. CFK30071502572/18/RR/2020 of the petitioner and as such provide the fertilizer in the shop.

iii. To grant any other relief/ reliefs to which the petitioner may be found entitled to in the facts and circumstances of the case..”

3. Learned counsel appearing on behalf of the petitioner has stated that the authority without verifying the true aspect of the matter has cancelled license of the petitioner. Learned counsel has stated that on the date of inspection an excess quantity of six bags of DAP was found in the premises of the petitioner and the explanation submitted by the petitioner that some of the farmers who have purchased the fertilizer have not taken the physical possession of the fertilizers due to falling of rain and dearth of time. That the petitioner has submitted the bills and also the notarised affidavits of the farmers who have purchased the above fertilizer but did not take the physical possession of the same but the said explanation was not considered by the authority. The authority has simply rejected



the explanation submitted by the petitioner stating that the same is unsatisfactory. Learned counsel has stated that the authority ought to have at least verified the veracity of the statements made by the farmers who have purchased the above fertilizer but the authority did not do so. Further it is stated that the entire stock was being sold through EPOS machine and therefore, the question of maintaining the register simultaneously does not arise. Further learned counsel for the petitioner has stated that the quantity which was found to be in excess was only six bags of DAP, for which the petitioner has submitted a detailed explanation but the same was not considered and the order was passed in a mechanical manner.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and has stated that though the petitioner has filed the affidavits of the farmers, the same was not reflected in the sale register. The names of the farmers to whom the DAP was sold was not found in the sale Register. Learned counsel has stated that the petitioner was indulging in black marketing of the DAP, therefore, the order of cancellation was passed by the authority strictly in accordance with law.



5. Admittedly in the present case on the date of inspection a total quantity of six bags of DAP was found in excess of the quantity that was supposed to be available with the petitioner. A show cause notice was issued to the petitioner seeking his explanation, for which the petitioner has filed along with the affidavits of the farmers who have stated to have purchased the six bags of DAP but did not take physical possession of the same. The said affidavits of the farmers were notarised and submitted along with the explanation. However a perusal of the order passed by the District Agriculture Officer does not reveal that the affidavits of the farmers were considered by the authority. The authority except stating that the explanation submitted by the petitioner was found unsatisfactory and that he has failed to substantiate the claim made by the him, no other reasons are given.

6. It is pertinent to note that once the petitioner has submitted the affidavits of farmers who have purchased the fertilizer, the authority ought to have verified the same if he had any doubt over the same but he simply cannot brush them aside without even giving any reason as to why the affidavits of the petitioner are disbelieved. Even the appellate authority has not taken into consideration the above aspect and passed the order



in a mechanical manner. Once the petitioner has submitted his explanation and also submitted the affidavits of the farmers who have purchased the DAP, the authority ought to have tested the veracity of the statements made by the farmers and examined them, but in this case the same was not done. Further the explanation submitted by the petitioner was also not considered in a proper manner and except stating that the same is unsatisfactory no other reasons are given. Unless and until the reasons are given by the authority while passing the order, it could not be possible for the higher authority or the superior courts to know what he weighed with the authority which has passed the order. The authorities are expected to give the reasons for rejecting or accepting the claim of the petitioner but the same is absent in this case. Further is to be noted that there is no allegation of any black marketing against the petitioner in the show cause notice and neither is there any proof that the petitioner was indulging any black marketing of the petitioner.

7. Having regard to the above, the impugned order dated 27.07.2022 passed by the District Agriculture Officer, Buxar and the order dated 14.02.2023 passed by the Joint Director (Agriculture), Patna are set aside. The license of the petitioner is restored. The authorities are directed to permit the



petitioner to continue his business without any hindrance.

8. With the above directions, the present Writ Petition
is allowed to the extent indicated above.

(A. Abhishek Reddy , J)

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