

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7978 of 2023

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Kajim Ansari, Son of Late Samsul Haque @ Samsul Jolha, Resident of Village- Jiut Chhapar, Gram Panchayat- Gopalpur, P.O.- Rudalpur, Block and P.S.- Bhorey, Sub Division- Hathua, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The District Magistrate, Gopalganj.
4. The Sub Divisional Officer, Hathua, District- Gopalganj.
5. The Block Supply Officer, Block- Bhorey, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5, Adv
For the Respondent/s : Mr.S. Raza Ahmad (AAG 5)

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

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

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

“A) Quashing of the show cause notice issued to the Petitioner vide a memo No. - 502/C, dated 10.04.2023 (Annexure - I, Page - 2) ; on amongst others the following grounds : -
i. For that the issuance of the show cause notice amounts to the highest misuse of the discretionary power, vested in Respondent No - 4 and 5.
ii. For that the enquiry conducted by the Respondent No. - 5 on 28.03.2023, did not yield any evidence (which is asserted by any valid person or any valid reason) and even after that the Respondent No. -



4, Sub-Divisional Officer, Hathua has issued the show cause notice to the Petitioner on 10.04.2023 (Annexure - 01).

iii. For that the greatest illegality in the notice dated 10.04.2023 stands that the Sub-Divisional Officer, Hathua has not framed the charges; but has called for a reply of the " letters concerned"; but no copy of " the Letter ' was sent to the Petitioner.

iv. For that the show cause notice dated 10.04.2023 contained only two enclosures - the enquiry report dated 28.03.2023 and a copy of the statements recorded by the Block Supply Officer, Bhorey.

v. For that the greatest anomaly in the matter is that the Original Complaint Petition, given by Smt. Sundari Devi and Smt. Rugda Devi; was not given to the present Petitioner.

vi. For that the Respondent No - 4 should have framed the charges in the show cause notice dated 10.04.2023 and only thereafter the show cause notice should have been issued to the Petitioner.

vii. For that the Respondent No - 4 The Sub-Divisional Officer, Hathua should have appreciated the facts that the original complainant Smt. Sundari Devi and Smt. Rugda Devi did not support their Complaint Petition and in that circumstance a notice calling the reply of the unsubstantiated complaint is an illegality in the eyes of law.

viii. For that the Sub-Divisional Officer, Hathua Respondent No -4 should have appreciated the fact that the statements recorded by the Block Supply Officer, Bhorey was the bogus statement - which has already been



substantiated by the status report of the ration card holders - who has got their statement recorded (the same is available at Page - 28 to 34 of this writ application)

ix. For that the Sub-Divisional Officer, Hathua Respondent No - 4 should have appreciated that the Panchayat leveled Public Representatives have also supported the contention of the Petitioner's ; that - all these complaints has been caused at the behest of Ram Ashish Yadav and Santosh Padit; due to the land dispute and election rivalry ; but then too the Respondent No - 4 has issued a show cause notice to the Petitioner.

x. For that the actuality of the matter is that the show cause notice dated 10.04.2023 (Annexure – 1 Page - 21) has been issued by the Respondent No - 4, maliciously ; at the behest of the said Ram Ashish Yadav and Santosh Padit; just to harass the present Petitioner.

xi. For that the issuance of the present arbitrary and illegal show cause notice, the Petitioner has suffered and irreparable injury.

xii. For that due to the issuance of the illegal and arbitrary show cause notice ; the Fundamental Rights of the Petitioner, as enshrined in the Constitution of India, has been violated.”

3. Learned counsel appearing on behalf of the petitioner has stated that the impugned show cause notice, which has been issued to the petitioner is bereft of any allegations against the petitioner except stating that there are



serious allegations against the petitioner, no specific details of the violation if any made by the petitioner are mentioned. The shows cause notice does not contains any specific allegation against the petitioner and has being simply issued in a mechanical manner without any application of mind. Learned counsel has stated that the petitioner cannot submit his explanation to a vague show cause notice, therefore, prays this Hon'ble Court to set aside the impugned show cause notice and remanded the matter back to the authority concerned for issuing a fresh show cause notice containing the details of allegations if any. The petitioner may be given an opportunity for submitting his explanation if any fresh show cause notice is issued to him.

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 the petitioner instead of submitting his explanation to the said show cause notice has approached this Hon'ble Court straightaway. Learned counsel has stated that the petitioner may be directed to submit his explanation to the said show cause notice and the Licensing Authority may be directed to pass an appropriate order on the explanation submitted by the petitioner. Therefore, learned counsel appearing on behalf of the



respondents has prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the show cause notice issued to the petitioner reveals that the inspection was done on 28.03.2023 by the Block Supply Officer, Bhore, wherein it was stated that he has found some irregularities during the inspection, except stating that there is gross violation of the Control Order, no specific allegations whatsoever have been made against the petitioner. In absence of any allegation, it could be difficult for any person to submit his explanation to the said show cause notice. Unless and until specific allegations are set out in the show cause notice, any person answering the same cannot submit an effective explanation.

6. Having regard to the facts that the show cause notice dated 10.04.2023 is bereft of any allegations, the same is set aside and the matter is remanded back to the Licensing Authority. The Licensing Authority shall issue a fresh show cause notice to the petitioner giving the details of the allegations if any against the petitioner and also the provisions of the Control order violated. On receipt of the said show cause notice, the petitioner shall submit his explanation within stipulated time. The Licensing Authority shall pass a reasoned order



strictly in accordance with law duly taking into consideration the explanation submitted by the petitioner. It is needless to observe that before passing any order, the Licensing Authority shall give an opportunity of hearing to the petitioner. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.

7. With the above direction, the present writ petition is disposed of.

(A. Abhishek Reddy , J)

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