

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8550 of 2024

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Smt Mausmi Rai Wife of Tarun Kumar, Resident of Village- Inarbarwa, Jogia,
Police Station- Jogia, District- West Champaran, Betia ... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
 2. The Collector cum Appellate Authority, West Champaran.
 3. The Sub-Divisional Officer cum Licensing Authority, Bagaha, West Champaran.
 4. The Block Supply Officer, Ramnagar, West Champaran ... Respondents
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Appearance :

For the Petitioner : Mr.Anand Kumar Ojha, Adv.
For the Respondents : Mr.S.Raza Ahmad, AAG V

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

2 18-07-2024 Heard the parties.

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

“..... for quashing of the Order dated 26.04.2024 contained in Memo No. 231 dated 26.04.2024 passed by the Licensing Authority/Respondent No. 3 whereby and whereunder without application of mind under the influence of the Superior Authority namely the Collector, the license of the Petitioner had been cancelled without examining the reply to the extent that the distribution of food grains during the period of Covid in the year 2020 had been done under the official instruction to save the card holders from starvation while maintaining the Covid Protocol.”



3. Learned counsel appearing on behalf of the petitioner has stated that the impugned order dated 26.04.2024 in Memo No. 231 passed by the Sub-Divisional Officer i.e. Respondent No. 3 is liable to be set aside as the same is against the principles of natural justice and equity. Learned counsel has stated that though the petitioner has submitted a detailed explanation to the show cause notice, the Sub-Divisional Officer has not considered the said explanation and passed the orders in a mechanical manner. Further the Sub-Divisional Officer under the instructions of the District Magistrate who is the Appellate Authority has passed the order of termination. That the Sub-Divisional Officer has not exercised his mind independently and without application of mind has passed the order. That the explanation submitted by the petitioner has not been adverted to by the Sub-Divisional Officer in his order. Learned counsel has, therefore, prayed this Court to set aside the impugned order and remand the matter back to the Sub- Divisional Officer for passing orders afresh duly taking into consideration the explanation submitted by the petitioner.

4. Per contra the learned counsel for the respondents has vehemently opposed the very maintainability of the present Writ Petition and stated that the petitioner has an alternative and



efficacious remedy of filing an appeal before the District Magistrate. Learned counsel has stated that the orders passed by the Sub-Divisional Officer is well reasoned order and does not require any interference of this Court and prayed to dismiss the present Writ Petition.

5. A perusal of the order passed by the Sub-Divisional Officer shows that the Sub-Divisional Officer while passing the orders has not adverted to the explanation submitted by the petitioner. Even though the petitioner has given a detailed explanation to the show cause notice, the Sub-Divisional Officer has not discussed the explanation submitted by the petitioner and passed the orders in a mechanical manner. This Court in a catena of cases, has held that any order that is passed has to contain the reasons for passing the said orders. Unless and until the reasons are given in the impugned order the superior authority or Court will not be in a position to appreciate the order passed and the reasons for the order being passed. In absence of any reasons in the order, it would be very difficult to either sustain or set aside the said order. Any order which is not speaking order cannot be sustained in the eye of law and the same has to be necessarily set aside.

6. In **Assistant Commissioner, Commercial Tax**



Department, Works Contract and Leasing, Kota vs. Shukla and Brothers, reported in (2010) 4 SCC, 785, the Hon'ble Supreme Court has held as under:

“..... while exercising the power of judicial review on administrative action and more particularly the judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic essentials. Firstly: a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.....”

“.....A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer Reasons are the soul of orders Non- recording of reasons could lead to dual infirmities: Firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. The orders of the court must reflect what weighed with the court in



granting or declining the relief claimed by the applicant."

7. Having regard to the above mentioned facts and circumstances, the impugned order dated 26.04.2024 passed by the Sub-Division Officer i.e. Respondent No. 3 is set aside and the matter is remanded back to the Sub-Divisional Officer for passing orders afresh. The Sub-Divisional Officer shall pass a reasoned order duly taking into account the various contentions raised by the petitioner in his explanation.

8. It is needless to mention that before passing any order the petitioner shall be put on notice and given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of the copy of this order. Any order passed shall be communicated to the party.

9. Accordingly, the present Writ Petition stands **allowed** to the extent indicated.

(A. Abhishek Reddy , J)

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