

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9980 of 2022

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Ram Vivek Patel Prop. M/s Vivek Enterprises, aged about 32 Year, Gender-Male, S/o Ajay Kumar, R/o-Vill and P.O. and P.S.-Masaurhi, Distt. Patna and also at Village-Koriyawan, P.S.-Masaurhi, Disit-Patna-804452

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Agricultural Department, Government of Bihar, Patna.
2. The Joint Director, Agricultural Department, Patna.
3. The District Agricultural Officer, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Waliur Rahman, Mr. Nishant Kumar Sinha, Advocates.
For the Respondent/s	:	Mr. Nilotpal Sharma AC to EX GP-21

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

7 12-03-2024 Heard learned counsel for the parties.

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

i. For quashing the Letter No. 2648 dated 09/09/2020 passed by the District Agricultural Officer, Patna (Annexure-1), by which Fertiliser retail license No. -CFK29081703758 dated 29/08/2017 of the petitioner was cancelled as well as the appellate order passed in case No.- 07/ 2020-21 vide letter No- 1274 dated 19/07/2021 passed by the Joint Director (Agriculture) Patna (Annexure-3) whereby the order dated 09/09/2020 was affirmed.

ii. For any other relief/reliefs for which the petitioner is entitled in facts and circumstances of the case.

3. Learned counsel for the petitioner has stated that



license of the petitioner was cancelled *vide* Annexure-2 dated 09.09.2020. In the said order the petitioner was asked to give his explanation and it was alleged that the petitioner has sold 90 bags of Urea on 24.06.2020 and 110 bags of Urea on 30.07.2020 and indulged in black marketing. Learned counsel has stated that though the petitioner has submitted his detailed explanation to the said show-cause *vide* Annexure-3 dated 11.09.2020 and also the individual affidavits of the consumers who have purchased the urea bags but the same has not been considered by the authority concerned and the impugned order dated 19.07.2021 was passed. Learned counsel has further stated that due to COVID-19 pandemic situation prevalent at that point of time, the petitioner has issued the above quantity of urea to some persons to be distributed in their respective villages and to that effect affidavits of the consumers were also produced. However, the concerned authority without going into the said aspect has passed the impugned order in a cryptic and mechanical manner. Learned counsel has, therefore, prayed this Court to set aside the same.

4. *Per contra*, learned counsel appearing on behalf of 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 Joint Director/Respondent No.2. Learned counsel has stated that the so-called affidavits procured by the petitioner are only an afterthought furnished only with a view to escape the consequences. That the petitioner has violated the provisions of the act and the fact that the petitioner has sold 90 bags of Urea on 24.06.2020 and 110 bags of Urea on 30.07.2020 has not been denied by the petitioner. That one or two persons cannot be allowed to purchase such a huge quantity of urea even for the sake of argument it is is contended that the same was purchased by one person to be distributed among the villager no proof of the same is furnished to the authority. That the order passed by the authority is a well reasoned order one and does not call for any interference by this Court and prayed to dismiss the present writ petition.

5. Admittedly, the petitioner has submitted his explanation along with affidavits of the persons who are alleged to have purchased 90 and 110 bags of urea on 24.06.2020 and 30.07.2020 respectively. However, the impugned order does not reveal that the authority while passing the said order has considered the said affidavits filed by the petitioner along with his show-cause explanation. A perusal of the affidavit shows



that they are dated 13.02.2021 whereas the impugned order is passed 19.07.2021, once it is revealed that the said affidavits were on record before the authority, the authority ought to have verified the genuinity of the said affidavits and passed the order. On this short ground alone, the impugned order is set aside and the matter is remanded back to the authority concerned for passing orders afresh duly taking into consideration the explanation as well as affidavits filed by the petitioner.

6. 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. It is needless to state that before passing any order the petitioner shall be put on notice and given an opportunity of hearing. Any order passed shall be communicated to the party.

7. Accordingly, with the above direction, the writ petition stands disposed of.

(A. Abhishek Reddy , J)

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