

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10881 of 2022

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Hari Prasad Yadav @ Hari Yadav S/o Late Mohan Yadav Resident of Village-
Kashpur, P.S.- Amarpur, District- Banka, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate (Collector), Banka.
3. The Sub-Divisional Officer, Banka.
4. The Block Supply Officer, Baunsi, Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Senior Advocate with
Ms. Diksha Kumari, Advocate.

For the Respondent/s : Mr. S. Raza Ahmad (AAG-5)

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

4 23-07-2024 Heard learned counsel for the parties.

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

*“For quashing the Memo No.
13 and order dated 10.01.2022 passed by
the S.D.O., Banka by which P.D.S.
License No. 58/12 of the petitioner has
been cancelled and order dated
20.05.2022 passed by the Learned
District Magistrate in Supply Appeal No.
1166/2021-22 by which appeal against
the order of the SDO was dismissed.”*

3. Learned counsel appearing on behalf of the
petitioner has stated that the petitioner was not given any



opportunity to cross-examine the complainants who are alleged to have made the complaint against the petitioner. That unless and until the petitioner is afforded an opportunity to confront the complainants, the veracity of the statements made before the Block Supply Officer cannot be taken as true and cannot be relied by the authority for cancelling the license of the petitioner. That the authority without considering the above issue has cancelled the license in a mechanical manner. 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 authorities but he has also dismissed the appeal in a mechanical manner without advertng to the above stated facts.

4. This Court in CWJC No. 2477 of 2019 vide order dated 29.04.2019 had 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 been done in the present case. For these reasons the impugned order is liable to be held bad.”

5. As seen from the record, the officer concerned has not conducted any enquiry to test the veracity of the complaints made by the consumers. The authorities concerned ought to have examined the consumers and given an opportunity to the petitioner to cross-examine the consumers.

6. Having regard to the above made submissions, this Court is of the opinion that the impugned order dated 10.01.2022 passed by the Sub-Divisional Officer, Banka and the order dated 20.05.2022 passed by the District Magistrate, Banka 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 and also cross-examining the complaints.

7. Accordingly, the orders impugned are set aside and the writ petition is allowed to the extent indicated above. The Sub-Divisional Officer concerned shall put the petitioner on notice duly giving him an opportunity of cross-examining the complaints or leading any evidence, the matter shall be decided on merits in accordance with law. The Sub-Divisional Officer concerned shall endeavour to see that the case is disposed of as



expeditiously as possible preferably within a period of ten weeks from the date of the receipt of the 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.

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

(A. Abhishek Reddy , J)

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