

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9005 of 2023

M/s Rani Sati Fertilizers Pvt. Ltd. a company registered under the Companies Act, 1956 having its Industrial Area, Donar, Dharbanga, Bihar through its Managing Director Shrawan Kumar Jhunhunwala, Male, Aged about 69 years, Son of Late Gauri Shankar Jhunhunwala, Resident of Agarwal House, Bhathiyari Sarai, Donar, P.O. Lalbagh, P.S. - Lalbagh, District- Darbhanga

... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Agriculture Government of Bihar, Secretariat, Patna.
2. The Secretary, Department of Agriculture Government of Bihar, Secretariat Patna.
3. The Agriculture Director, Department of Agriculture, Government of Bihar, Krishi Bhawan, Mithapur, Patna.
4. The Block Agriculture Officer, Darbhanga Sadar, Darbhanga.
5. The Fertilizer Inspector-cum-Agriculture Co-ordinator, Darbhanga Sadar, Darbhanga.

... Respondents

Appearance :

For the Petitioner : Mr.Mohit Agarwal, Adv.
For the Respondents : Mr.Dhurjati Kr. Prasad (Gp14)

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

9 02-02-2024 Heard the learned counsel for the parties.

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

(i) For quashing of the order dated 10.05.2023 passed in Appeal Case No. 03 of 2023 by the Respondent Appellate Authority-cum-Principal Secretary, Department of Agriculture, Bihar, Patna communicated vide Memo No. 2069 dated 02.06.2023 whereby the appeal preferred against the impugned order of cancellation of license passed vide Memo



No. 1783 dated 03.02.2023 was affirmed without considering the grounds of appeal raised by the petitioner,

(ii) For quashing of the office order dated 03.02.2023 passed by the Respondent Director of Agriculture, Bihar vide Memo No. 1783 dated 03.02.2023 whereby the Fertilizer Manufacturing Authorisation Letter No. 46(R) and the Fertilizer Distribution Authorisation Letter No. 110(R) in the name of the Petitioner was cancelled with immediate effect as the same has been passed in violation of Clause 31(1) of the Fertilizer (Control) Order, 1985 as no opportunity of hearing was given prior to passing of the order which is mandatory in terms of said Clause;

(iii) For holding that the impugned order has been passed in violation of the provisions of Clause 31(1) of the Fertilizer (Control) Order, 1985 as no opportunity of hearing was granted to the Petitioner,

(iv) For direction upon the Respondents to restore the Fertilizer Manufacturing Authorisation Letter No. 46(R) and the Fertilizer Distribution Authorisation Letter No. 110(R) of the Petitioner,

(v) For direction upon the Respondent to unseal the manufacturing unit of the Petitioner which has been sealed by the Respondents as the raw materials and even the finished goods (fertilizers) are perishable in nature and the same will get decayed/un-full if not released; for any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances in this case.



3. Learned counsel for the petitioner has stated that the authority has cancelled the license of the petitioner in contravention of the provisions of the Fertilizer (Control) Order, 1985. That the petitioner was served an office order, dated 18.06.2022, bearing Reference No. 849 under the signature of the Director, Agriculture, Bihar, suspending the business of the petitioner from manufacturing and purchase of raw material and he was directed to file his show cause within a period of ten days from the date of order. Perusal of the said order reveals that the said order has been passed on the basis of some communication received from the Government of India.

4. That the petitioner has given a reply, dated 23.06.2022, vide Reference No. RSF/09/2022-23 giving full details of the opening balance of urea, the purchase made between 01.04.2021 to 31.03.2022, the consumption during the above said period and the balance stock that was available as on 31.03.2022. Similar reply was given for DAP, SSP etc. Thereafter, a request was made to withdraw the suspension, but, the same was not done. The petitioner has given another representation on 10.08.2022, however, the suspension order was not withdrawn. The authorities conducted an inspection on 09.01.2023 consisting of Subdivisional Agriculture Officer, Sadar, Darbhanga, and seized the books of registers totalling 34



and also the raw material under the seizure list, dated 09.01.2023. Thereafter, the authorities have issued a show cause notice bearing letter no. 1690, dated 12.01.2023, seeking an explanation from the petitioner as to why the manufacturing and distribution authorization of the fertilizer should not be cancelled. The petitioner has filed a reply to the above show cause notice on 17.01.2023 and requested the authorities to return the books of accounts so that the petitioner can file a detailed explanation. However, the petitioner was issued an order, dated 03.02.2023, vide Memo No. 1783 cancelling the manufacturing and distribution license of the petitioner. That the above order was passed without giving an opportunity of hearing to the petitioner. Learned counsel has stated that the authority concerned without releasing the stock register and books of accounts of the petitioner cannot expect the petitioner to give a detailed explanation to the show cause notice and to the various allegations made in the show cause notice. That though the petitioner has preferred a statutory appeal before the Principal Secretary, Department of Agriculture, Government of Bihar, Patna-cum-Appellate Authority vide Appeal No. 3 of 2023, the same was dismissed by the said Appellate Authority vide order, dated 02.06.2023. That the Appellate Authority without adverting to the various grounds raised by the petitioner



has decided the appeal in a mechanical manner. Learned counsel has, therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authority concerned for passing order afresh after return of the books of accounts and stock register to the petitioner and giving an opportunity of filing a detailed explanation to the show cause notice and also an opportunity of hearing before any orders are passed.

5. Per contra the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the authorities on inspection of the premises of the petitioner have found certain irregularities and the petitioner was put on notice and given an opportunity of filing his explanation to the said show cause notice. That the explanation filed by the petitioner was not satisfactory and the petitioner has not met with the allegations made against him, therefore, left with no other option, the authority have passed the order of cancellation of manufacturing and distribution license. Learned counsel has also stated that the both the primary as well as the Appellate Authority having found that the petitioner has violated the provisions of the Fertilizer (Control) Order, 1985, have cancelled the license of manufacturing and distribution of the



petitioner's unit and the same is in consonance with the provisions of the Fertilizer (Control) Order, 1985, and there are no merits in the present Writ Petition which warrants any interference and that the Writ Petition may be dismissed with costs.

6. Admittedly, as seen from the records, the book of accounts and the stock registers of the petitioner were seized by the authority on 09.01.2023. Though the petitioner has been issued a show cause notice seeking his explanation with regard to the stock available in the unit of the petitioner, the petitioner could not have given a suitable reply in the absence of books of accounts and the stock registers, therefore, the contention of the respondents that the explanation submitted by the petitioner was not satisfactory and did not meet the allegations made against the petitioner cannot be countenanced unless and until the books of accounts and stock registers are returned to the petitioner, the petitioner cannot not be extended nor will be in a position to meet the allegations made against him effectively.

7. Having regard to the above, the impugned order passed by the appellate as well as primary authorities, dated 02.06.2023 and 03.02.2023, are both set aside. The authorities are directed to return the books of accounts and stock registers to the petitioner duly taking an inventory of the same and giving



the petitioner reasonable time to file an explanation to show cause notice, dated 18.06.2022. That the petitioner shall file his show cause within the time stipulated by the authorities concerned and on receipt of the same the authority concerned shall pass a reasoned order in accordance with the Fertilizer (Control) Order, 1985. The Respondent No. 3, the Agriculture Director, Department of Agriculture, Government of Bihar, Krishi Bhawan, Mithapur, Patna, shall give an opportunity of hearing to the petitioner before passing any order. 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 orders passed shall be communicated to the parties.

8. With the above directions, this Writ Petition stands **disposed off**.

(A. Abhishek Reddy , J)

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