

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10632 of 2022

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Ambika Paswan, Male, aged about 48 years, son of Mukhalal Paswan,
resident of village - Dwarika, Village Panchayat- Utalibara, Police Station -
Tankuppa, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar at Patna.
2. The District Magistrate, Gaya.
3. The Sub Divisional Officer, Sadar Gaya, Dist. - Gaya.
4. The Block Supply Officer, Tankuppa, Dist. - Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar, Adv.

For the Respondent/s : Mr. Arvind Ujjwal (SC 4).

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

4 30-04-2024 Heard learned counsel for the parties.

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

“....for issuance of appropriate writ or direction or order to quash the order dated 06.07.2022 contained in memo No. 872 passed by the Licensing Authority cum Sub Divisional Officer, Sadar Gaya whereby the license No. 17/16 of the petitioner granted under the Bihar Targeted P.D.S. (Control) Order, 2016 has capriciously been cancelled and for direction upon the respondent No. 3 to continue allocation to the Public Distribution System Shop of the petitioner after declaring the cancelation order null and void.”



3. Learned counsel appearing on behalf of the petitioner has stated that the shop of the petitioner was inspected on 07.01.2022 and the petitioner was issued show cause notice by the Sub-Divisional Officer. Thereafter the petitioner has given a suitable explanation to the said show cause notice, however, the authorities have conducted another inspection on 29.04.2022 and submitted an enquiry report but the copy of the said enquiry report has not been furnished to the petitioner. The authority without considering the explanation submitted by the petitioner has straightaway passed the order and in the said order, they have taken another ground for cancelling the licence of the petitioner which was not alleged in the original show cause notice. Learned counsel has stated that conducting the second enquiry behind the back of the petitioner and not furnishing the copy of the said enquiry report to the petitioner is against the principles of natural justice and equity. Learned counsel has, therefore, prayed this Court for setting aside the impugned order dated 06.07.2022 and remand the matter back to the authority concerned for passing orders afresh duly serving a copy of the second enquiry report on the petitioner and giving him an opportunity to file his explanation.

4. Per contra, the learned counsel for the respondents



has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the petitioner is having an alternative and efficacious remedy of filing an appeal before the District Magistrate but the petitioner by bypassing the same has straightaway approached this Court. Learned counsel has stated that the petitioner may raise all the above grounds in the appeal and the appellate authority will consider the same in accordance with law. Learned counsel has, therefore, prayed this Court to dismiss the present writ petition.

5. Admittedly, in the present case the inspection of the shop of the petitioner was conducted on 07.01.2022 and the show cause notice along with the enquiry report was furnished to the petitioner and which the petitioner has given his explanation within the stipulated time. Thereafter, the authorities have conducted another inspection on 29.04.2022 and the Block Supply Officer has given an enquiry report to the Sub-Divisional Officer concerned on 30.04.2022. However, the said enquiry report has not been furnished to the petitioner. Moreover, as seen from the order, the authorities have taken a totally new ground for cancellation of the allotment made to the petitioner which was not there in the earlier show cause notice. The above enumerated violations are against the principles of



natural justice and equity and therefore, the impugned order has to be necessarily held to be bad. This Court as well as the Hon'ble Supreme Court in a catena of cases has held that in case, the Court comes to the conclusion that there are violations of the principles of natural justice the plea of alternate remedy cannot be a bar to entertain the writ petition under Article 226 of the Constitution of India.

6. Having regard to the above facts and circumstances the impugned order dated 06.07.2022 passed by the Sub-Divisional Officer, Sadar Gaya (Respondent No. 3) is set aside and the matter remanded back to the authority concerned for issuing a fresh show cause notice to the petitioner containing all the allegations and enclosing the copy of the enquiry report dated 07.01.2022 and 29.04.2022. The petitioner shall be given reasonable time for submitting his explanation. On receipt of the explanation from the petitioner, the authority concerned shall pass a reasoned order duly taking into consideration the explanation submitted by the petitioner. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from date of the receipt of the copy of this order. It is needless to mention that before passing any orders, the petitioner shall be given an opportunity of



hearing. Any order pass shall be communicated to the party.

7. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy, J)

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