

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10749 of 2022

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Hari Shankar Shahi, Male, aged about 62 years, Son of Late Ram Sakal Shahi
Resident of Village- Parsauni Kapoor, P.S.- Patahi, District- East Champaran
(Motihari).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, East Champaran at Motihari.
3. District Supply Officer, East Champaran, at Motihari.
4. The Sub-Divisional Officer, Pakaridayal, District- East Champaran.
5. The Additional Sub-Divisional Officer, Pakaridayal, District- East Champaran.
6. Block Development Officer-cum-Block Supply Officer, Patahi, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha, Advocate.
For the Respondent/s : Mr. Arvind Ujjwal, SC-4.

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

6 02-04-2024 Heard learned counsel for the parties.

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

“.....for setting aside the order dated 19.12.2020 vide Memo No. 623 passed by the Licensing Officer-cum-Sub-Divisional Officer, Pakaridayal, East Champaran (Respondent No. 4) by which the PDS license of the petitioner bearing License No. 79/16 for Panchayat-Parauni Kapoor under Block: Patahi, District: East Champaran has been cancelled, with immediate effect in



exercise of his power under Clause 27(1) of the Bihar Targeted PDS (Control) order, 2016 on the ground that Licensing Authority has found no satisfactory reply regarding irregularities committed in supply of food-grains to the beneficiaries by the petitioner; and also setting aside the order dated 11.06.2022 passed by the Collector-cum-District Magistrate, East Champaran Motihari (Respondent No. 2) affirming the order of cancellation dated 19.12.2020 passed by the S.D.O., Pakaridayal and appeal filed by the petitioner was dismissed.”

3. Learned counsel appearing on behalf of the petitioner has stated that the petitioner has been issued PDS licence in the year 2016. That subsequently, a show cause notice vide letter dated 1524 dated 28.09.2020 has been issued by the Sub-Divisional Officer alleging some irregularities in the distribution of the food-grains and violation of the provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016. The petitioner has filed his explanation to the said show cause notice on 26.11.2020. Thereafter, the Sub-Divisional Officer has passed the order of cancellation vide order dated 19.12.2020 in Memo No. 623. Learned counsel has stated that except stating that the explanation submitted by the petitioner is not satisfactory, no other reason has been given by the authority concerned for passing the order of cancellation. Learned counsel



has stated that the authority has passed the order in a mechanical manner without advertng to the explanation submitted by the petitioner herein and therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authority concerned for passing orders afresh duly taking into consideration the explanation submitted by the petitioner. It is further stated by the counsel for the petitioner that even though an appeal has been preferred by the petitioner, the appellate authority has not dealt with the matter on merits and dismissed the appeal by a cryptic order.

4. Per contra, learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition and has stated that the authority concerned duly taking into consideration the explanation submitted by the petitioner has passed the impugned order. That the order passed by the appellate authority is also a well reasoned order which does not call for any interference by this Court and, therefore, prayed this Court to dismiss the present writ petition.

5. A perusal of the impugned order passed by the Sub-Divisional Officer dated 19.12.2020 reveals that the said authority except stating that the explanation submitted by the petitioner is not satisfactory, no other reason has been given and



the explanation submitted by the petitioner has not being adverted to at all.

6. This Court as well as the Apex Court, on number of occasions, have held that any authority/Court/quasi judicial authority while passing order have to necessarily give reasons in the order passed. Unless reasons are given in the order, neither the party nor the Courts before whom the order is challenged will be in a position to appreciate as to what has weighed with the said authority either for dismissing or allowing the case. Though the quasi judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial order, yet they are expected to give a reasoned order which should be precise, concisely setting out the reasons for allowing or dismissing the contention/application as the case may be.

7. 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."

8. Once it is held that the order passed by the primary authority is bad, illegal and liable to be set aside the order passed by the appellate authority does not have any legs to stand and therefore, the same is also liable to be set aside.

9. Having regard to the above, the impugned order dated 19.12.2020 in Memo No. 623 passed by the Licensing Officer-cum-Sub-Divisional Officer (Respondent No. 4) and the order dated 11.06.2022 passed by the Collector-cum-District Magistrate, East Champaran Motihari (Respondent No. 2) are both set aside and the matter is remanded back to the Sub-



Divisional Officer concerned for passing orders afresh.

10. It is needless to mention that before passing any order the petitioner shall be put on notice and given an opportunity of hearing. The authority 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 the date of receipt of the copy of this order. Any order passed shall be communicated to the party.

11. With the above directions, the present Writ Petition stands **disposed of** to the extent indicated.

(A. Abhishek Reddy, J)

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