

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9993 of 2024

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Bihari Sahni Son of Late Bhupan Sanhi, Resident of Village- Dharampur,
P.S.- Rampur Hari, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Old Secretariat Patna.
2. The Principal Secretary, Food and Civil Supplies Department, Government of Bihar, Old Secretariat, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, Muzaffarpur.
5. The Sub-Divisional Officer (West), Muzaffarpur-Cum- Licensing Authority, Muzaffarpur.
6. The Block Supply Officer, Block Meenapur, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeet Kumar, Adv.
For the State	:	Mr. Manoj Kumar Yadav, AC to GA10

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

2 07-08-2024 Heard the learned counsel for the parties.

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

“(i) For issuance of writ in the nature of Certiorari to set aside the order contained in Memo No. 1190 dated 03.10.2023 issued under the signature of Sub Divisional Officer, West, by which the PDS license of the petitioner has been cancelled in most illegal and arbitrary manner and without supplying the Inquiry Report which is the basis of issuance of order of cancellation. The petitioner was not given proper opportunity to file his reply to Show



Cause notice. The impugned order of cancellation is an ex-parte.

(ii) That the petitioner further prays for quashing of the order dated 11.03.2024 passed in Supply Appeal Case No. 17/2023 passed by the Court of Learned District Magistrate-cum-Appellate Authority, Muzaffarpur by which Appeal preferred by the Petitioner under Rule-32 (iii) of Bihar Targeted PDS (Control), Order, 2016 (hereinafter be referred on Control Order) has been rejected without applying the judicial mind and as well as without considering the grounds taken in the Memo of Appeal.

(iii) That the petitioner further prays for direction upon the Respondents to restore the PDS shop of the petitioner which he is running in Dharampur Panchayat of Meenapur Block in the District of Muzaffarpur.

(iv) That the petitioner also prays for issuance of any other direction/directions/ for which for which the petitioner is found entitled for by this Hon'ble Court."

3. Learned counsel appearing on behalf of the petitioner has stated that Sub-Divisional Officer (West), Muzaffarpur, vide order dated 03.10.2023 has cancelled the licence of the petitioner only on the ground that the petitioner has not submitted his explanation to the show cause notice. That the Sub-Divisional Officer did not pass the order on merits of



the case and passed the order in a mechanical manner.

4. Learned counsel appearing on behalf of the petitioner has stated that the matter is fairly contended by the order of a Division Bench of this Hon'ble Court passed in L.P.A. No. 861 of 2004 dated 06.09.2004, wherein this Hon'ble Court has held that even if the licence holder does not file any explanation to the Show Cause Notice, the Authority concerned are legally bound to pass the orders on merits. Therefore, the learned counsel seeks the indulgence of this Court to set aside the impugned orders and remand the matter back to the authority concerned for passing orders afresh on merits.

5. *Per contra*, the learned the learned counsel appearing on behalf of the respondents while conceding to the Judgment of this Hon'ble Court referred above has stated that he has no objection for setting aside the impugned orders and remand the matter back to the authority concerned for passing orders afresh.

6. Having regard to the above made submissions and also the law laid down in LPA No. 861 of 2004 dated 06.09.2004, the impugned order dated 03.10.2023 is set aside and the matter is remanded back to the Sub-Divisional Officer (West), Muzaffarpur, (Respondent No. 5) for passing a reasoned



order afresh strictly on merits. The authority concerned shall give an opportunity to the petitioner to file his explanation and then pass the order duly taking into consideration the explanation submitted by the petitioner.

7. It is needless to mention that before passing any order, the petitioner shall be given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possibly 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.

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

(A. Abhishek Reddy, J)

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