

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11233 of 2022

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Bachchi Devi @ Mostt. Bachchi Devi, aged about 93 years, Female, W/o Late Yogendra Prasad Resident of Ward No. 3, Belsand, P.O.- Belsand, P.S.- Belsand, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Collector, Sitamarhi.
3. The Sub-Divisional Officer, Belsand, Sitamarhi.
4. The Block Supply Officer, Belsand, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Adv.

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

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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/writs, order/orders, directions to the respondents concerned for quashing of the order dated 31.05.2022 contained in Memo No. 734 dated 01.06.2022 passed by the Learned Sub-Divisional Officer, Belsand Sitamarhi by which he was pleased to cancel the PDS licence of the petitioner being licence No. 32/2007 and further be pleased to restore the PDS license as well as supply of the petitioner.”

3. Learned counsel for the petitioner has assailed the



impugned order dated 31.05.2022 in Memo No. 734 dated 01.06.2022 passed by the Sub-Divisional Officer, Belsand Sitamarhi on following grounds; one that the copy of the enquiry report has not been furnished to the petitioner along with the show cause notice; second that the Sub-Divisional Officer has passed the impugned order solely based on the opinion of the Block Supply Officer and has not independently applied his mind while passing the impugned order. Learned counsel has relying on the Judgements of this Hon'ble Court in CWJC No. 21200 of 2021 dated 22.02.2022 and also the CWJC No. 248 of 2023 dated 17.10.2023.

4. Learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner is having an alternate and effective remedy of filing an appeal before the District Magistrate concerned. That all the points raised by the petitioner can be raised in the appeal but the petitioner without availing the appeal provision has straightaway approached this Court, therefore, learned counsel prays that the present writ petition may be dismissed.

5. A perusal of the impugned show cause notice and also the impugned order reveals that the copy of the enquiry



report has not been furnished to the petitioner even in the counter-affidavit filed by the authorities they have not denied the above factum. Moreover, as seen from the order, the Sub-Divisional Officer has relied on the opinion of the Block Supply Officer while passing the impugned order. The Sub-Divisional Officer is supposed to apply his mind independently on the allegations made against the petitioner and pass a reasoned order duly taking into consideration the explanation submitted by the petitioner but in this case the same is absent. The order impugned dated 31.05.2022 in Memo No. 734 dated 01.06.2022 passed by the Sub-Divisional Officer, Belsand Sitamarhi (Respondent No. 3) is liable to be set aside on this ground is accordingly set aside and the matter is remanded back to the Licensing Authority for passing orders afresh duly serving a copy of the enquiry report on the petitioner and giving him some opportunity for filing his explanation. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the 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.

6. With the above directions, the present writ petition



stands **disposed of** to the extent indicated.

(A. Abhishek Reddy, J)

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