

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9894 of 2024

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Ram Sanehi Lal (P.D.S Dealer) Son of Kali Ram, Resident of Village-
Bargaon, Bhojpur P.S- Bargaon, District- Bhojpur. ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
 2. The District Magistrate, Bhojpur, Arah
 3. The Sub Divisional Officer Sadar, Bhojpur, Arah
 4. The Supply Inspector cum Block Development Officer , Agigawn.
- ... Respondents
- =====

Appearance :

For the Petitioner : Mr. N.K. Agarwal, Sr. Adv. with
M/s Kumar Rajdeep & Avind Kumar, Advs.
For the Respondents : Mr.Standing Counsel (4)

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

2 01-10-2024

Heard the parties.

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

“For issuance of a writ in the nature of Certiorari for quashing the Order dated 14.092021 passed in Supply Appeal No.35 2021 by the District Magistrate, which was filed against the order of the filed after order dated 16.07.2019 of Sub Divisional Officer Sadar, Bhojpur Ara by which P.D.S license No. 30/2007 of the petitioner was cancelled are liable to be set-aside as the order passed by Respondent No- 3 (The Sub Divisional Officer Sadar, Bhojpur, Arah) is non speaking and has been passed without cross examining the consumers and without serving the copy of inspection report to the PDS dealer(Petitioner) and passing the order of cancellation of license of the petitioner in violation of the principles of



Natural Justice, in as much as the Impugned Orders have been passed without considering the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner has stated that the show cause notice issued to the petitioner does not contain the proposal for cancellation of the petitioner's licence and the same is contrary to the Rule 27 (ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016. Learned counsel has relied on the Judgement of the this Hon'ble Court passed in CWJC No. 21202 of 2021 and analogous cases dated 26.09.2023 to buttress his contention. Further, learned counsel has stated that the petitioner could not file his explanation within the stipulated time and the authority concerned has passed the order of cancellation solely on the ground that the petitioner has not filed his explanation. Learned counsel has stated that a Division Bench of this Hon'ble Court in L.P.A. No. 861 of 2004 dated 06.09.2004 has held that even if the licence holder does not file his explanation to the show cause notice, the authority concerned is legally bound to pass orders on its own merits. Learned counsel has therefore prayed this Court to set aside the impugned order and remanded the matter back to the authority concerned for issuing a fresh show cause notice in compliance with the Rule 27 (ii) of the Bihar Targeted Public Distribution System



(Control) Order, 2016 and an opportunity may be granted to the petitioner to file his explanation and then a reasoned order passed.

4. Per contra the learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition has stated that the petitioner has statutory remedy of filing a revision before the Divisional Commissioner. Learned counsel has stated that the petitioner without availing the statutory remedy of revision has preferred the present writ petition and prayed for dismissal of the present writ petition.

5. This Hon'ble Court in CWJC No. 21202 of 2021 and analogous cases has held as under:

“19. Accordingly, we answer the reference as under:-

It is mandatory for a licensing authority issuing a notice under order 27(ii) to a license to mention that there is a proposal for cancellation of his license, failing which such notice cannot be treated to be a valid notice of giving sufficient opportunity to the licensee to state his case under order 27(ii) of the BTPDS Control Order.”

6. Having regard to the above, the impugned orders, dated 14.09.2021, passed by the District Magistrate, Bhojpur at Arrah, in Supply Appeal No. 35 of 2021 and dated 16.07.2019 passed by the Sub Divisional Officer, Sadar, Bhojpur at Arrah in P.D.S. License



No.30 of 2007 are both set aside. The matter is remanded back to the Sub Divisional Officer concerned, the authority concerned shall issue a fresh show cause notice to the petitioner in compliance of the Rule 27 (ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016, giving reasonable time to the petitioner to file his explanation. On such explanation being filed, the authority concerned shall pass necessary orders strictly in accordance with law on its own merits. 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.

7. It is needless to mention that before passing any orders, the petitioner shall be put on notice and given an opportunity of hearing. Any order passed shall be communicated to the party.

8. With the above observation, the present Writ Petition stands **allowed** to the extent indicated.

(A. Abhishek Reddy , J)

Shamshad/-

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