

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11351 of 2022

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Ram Prasad Ram S/o Late Guneshwar Ram, Resident of Village -
Babhangama, Ward No. 5, Dhusmari Bishunpur, P.S. and District - Khagaria,
Bihar. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Khagaria.
3. The Sub Divisional Officer, Khagaria.
4. The Block Supply Officer, Khagaria.
5. The District Supply Officer, Khagaria.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Adv. Mr. Kumar Rajdeep, Adv. Ms. Diksha Kumari, Adv.
For the Respondent/s	:	Mr. S. Raza Ahmad (Aag5)
For the State	:	Md. Anisul Haque, AC to AAG-5

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

3 11-01-2024 Heard learned counsel for the parties.

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

“That the present writ petition is filed on behalf of the petitioner for quashing the Memo no. 117 dated 29-06-2022 passed by S.D.O., Khagaria by which P.D.S. License No. 40K/2007 of the petitioner has been cancelled.”

3. Learned counsel for the petitioner has stated that pursuant to the inspection done by the Block Supply Officer, the S.D.O has issued a show cause notice to the petitioner



seeking his explanation. The petitioner thereafter has filed his explanation on 20.04.2022 and the S.D.O. has issued a second show cause notice on 09.06.2022 to which the petitioner has also given a detailed explanation. Learned counsel has stated that the S.D.O. appears to have called for an opinion from the Block Supply Officer on the explanation submitted by the petitioner. However, before issuing the second show cause notice the S.D.O. has not framed any charges/allegations against the petitioner except enclosing the copy of the inquiry report to the said 2nd show cause notice, the S.D.O. has not applied his independent mind. Thereafter the impugned order has been passed by the S.D.O. without any application of mind. Learned counsel has stated that the issuance of the second show cause notice without alleging anything against the petitioner and simply enclosing the copy of the inquiry report is bad in law and the same has to be set aside. Further, the learned counsel has stated that the authority concerned except stating that the explanation submitted by the petitioner is not satisfactory has not given any other valid reason for passing the impugned order, therefore, prayed to this Hon'ble Court to set aside the same and remand the matter back to the authority concerned for issuing a fresh show cause notice giving the



details of the allegations, if any, against the petitioner or if there are any violations of the provisions of the Control Order by the petitioner.

4. Per contra, the learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition and has stated that the notices have been issued to the petitioner and the petitioner has submitted the explanation. The explanation submitted by the petitioner was taken into consideration and a detailed order was passed by the authority concerned. Learned counsel has stated that the petitioner has an alternative remedy of filing an appeal if he is aggrieved by the order of the S.D.O. before the District Magistrate and he may be relegated to the appellate authority for filing the appeal. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the material filed by the respondents more specifically the notice dated 09.06.2020 reveals that except enclosing the copy of the opinion dated 07.04.2022 of the Block Supply Officer, the authority has not applied his mind. The authority ought to have verified the opinion and if any violations of the Control order have been made by the petitioner he should have independently framed charges and



issued the show cause notice to the petitioner containing the allegations/charges. However, the same is missing, merely suffixing the copy of the opinion of the block supply officer along with the Show Cause notice will not meet the rigour of the law.

6. Having regard to the said fact, the impugned order is set aside and the matter remanded back to the authority concerned for issuing a fresh show cause notice to the petitioner. It is made clear that the show cause notice shall specify the allegations if any against the petitioner or violations of the Control Orders, if any. The authority shall give the petitioner reasonable opportunity to file his explanation and after receipt of the said explanation, the S.D.O. shall pass necessary orders on merits strictly in accordance with law. 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.

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

(A. Abhishek Reddy , J)

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