

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11383 of 2022

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Kedar Nath Pandey, aged about 65 years Male, S/o Late Ram Kishun Pandey,
Resident of Udhapur, P.S. - Bikramganj, District - Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Civil Supply Department, Government of Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The Sub-Divisional Officer, Bikramganj, Rohtas.
4. The Block Supply Officer, Bikramganj, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Adv. with Mr. Vijay Anand, Adv. Mr. Kumar Rajdeep, Adv. Ms. Diksha Kumari, Adv.
For the Respondent/s	:	Mr. S. Raza Ahmad (AAG5).

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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 setting aside the order dated 09.07.2020 contained in Memo No. 346 passed by the Sub-Divisional Officer, Rohtas at Sasaram by which he was pleased to cancel the PDS licence of the petitioner as well as the order passed by the learned District Magistrate, Rohtas in Supply Appeal No. 01/2022 dated 03.06.2022 whereby and whereunder the learned Collector, Rohtas has also without considering the facts available



on record has passed an order and dismissed the appeal filed by the petitioner.”

3. Learned counsel appearing on behalf of the petitioner has assailed the impugned order of cancellation on the following grounds; that the show cause notice does not contain any averments with regard to the proposed punishment sought to be taken against the petitioner and the same is in violation of the full court Judgment of this Hon’ble Court dated 26.09.2023 passed in CWJC No. 21202 of 2021 and violative of Rule 27(ii) of the Control Order; second that the authority without mentioning the grounds on which the action is sought to be taken against the petitioner. Further, learned counsel has stated that the authority has passed the impugned order of cancellation on a totally new grounds which was not even adverted to in the show cause notice. Learned counsel has relied on the Judgment of this Hon’ble Court in CWJC No. 7085 of 2023 dated 16.10.2023 and also the Judgment of this Court in CWJC No. 20710 of 2018 dated 14.09.2023. Further, learned counsel has stated that though the petitioner has raised all these above grounds in the appeal, the authority did not advert to the same and passed the order dated 03.06.2022 in a mechanical manner. Therefore, learned counsel has prayed for setting aside the order



passed by the appellate as well as the licensing authority and remand the matter back to the licensing authority for passing orders afresh after serving a fresh show cause notice to the petitioner containing all the allegations duly enclosing the copy of the enquiry report (if any) and any other material that the respondents wants to rely on. And prayed this Hon'ble Court to allow the present writ petition.

4. Per contra, the learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition stating that the petitioner without exhausting the remedy of filing a statutory revision before the Divisional Commissioner has straightaway approached this Court. Learned counsel has stated that the act provides for an alternative and efficacious remedy of filing a revision under Rule 32 (vi) of the Control Order and therefore, prayed this Court to dismiss the present writ petition.

5. In the show cause notices dated 26.04.2020 and dated 17.06.2020 except stating that an F.I.R. has been lodged against the petitioner, no other allegation is made against the petitioner. However, the licensing authority while passing the order has taken a totally new ground, the basis for passing the order is not reflected in the show cause notices issued to the



petitioner. Further, as seen from the record, the appellate authority has also not dealt with the grounds raised by the petitioner and has passed the order in a mechanical manner.

6. The Full Court of this Hon'ble Court in the Judgment dated 26.09.2023 passed 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 licensee to mention that there is a proposal of cancellation of his licence, 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.”

7. Having regard to the above, the impugned order dated 09.07.2020 passed by the Sub-Divisional Officer, Rohtas at Sasaram and order dated 03.06.2022 passed by the District Magistrate, Rohtas are set aside and the matter is remanded back to the licensing authority for passing orders afresh. The licensing authority before passing any orders shall issue a fresh show cause notice to the petitioner containing all the allegations against the petitioner, giving reasonable time to file his explanation. After receipt of the explanation from the petitioner, the authority concerned shall pass a reasoned order duly taking



into consideration the explanation submitted by the petitioner.

8. It is needless to mention that the petitioner shall be furnished a copy of the enquiry report and any other material that the authority is relying on along with the show cause notice. The petitioner shall be given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of the copy of this order. Any order passed, shall be communicated to the party.

9. With the above directions, the present writ petition stands **disposed of** to the extent indicated.

(A. Abhishek Reddy, J)

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