

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12358 of 2022**

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Shambhu Prasad Suman S/o- Tetar Saw, Resident of Village- Pachna Road,  
Chandani Chowk, Ward No. 20, P.S. and District- Lakhisarai, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Lakhisarai.
3. The Sub Divisional Officer, Lakhisarai.
4. The Assistant District Supply Officer, Lakhisarai.
5. The Block Supply Officer, Halsi.
6. The Marketing Officer, Lakhisarai.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. N. K. Agrawal, Sr. Advocate<br>Mr. Kumar Rajdeep, Advocate<br>Mr. Diksha Kumari, Advocate |
| For the State        | : | Mr. S. Raza Ahmad, Sr. Advocate (AAG-5)<br>Mr. Anisur Haque, A.C. to AAG-5.                   |

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

3      19-03-2024                      Heard the parties.

2. This writ petition has been filed for quashing the order dated 20.06.2022 passed in Supply Appeal No.07 of 2022 by the District Magistrate, Lakhisarai and Memo No.35 dated 22.01.2021 passed by the learned S.D.O. Lakhisarai by which P.D.S. License No.01 of 2006 of the petitioner has been cancelled.

3. Learned counsel for the petitioner stated that the licence of the petitioner was suspended initially on the basis of the F.I.R. lodged against the petitioner and the petitioner was



directed to file his explanation to show cause notice that after receipt of show cause notice, petitioner has submitted his explanation and participated in the hearing before the Sub-Divisional Officer, Lakhisarai. That on 7.8.2020 the petitioner had received a notice intimating the date of hearing at 18.08.2020 at 11 P.M.. The petitioner due to ill-health, could not participate in the said hearing and gave a representation seeking adjournment of the case. However, the authority without granting the adjournment as sought by the petitioner and without giving an opportunity of hearing has reserved the matter and passed the order of cancellation on 22.01.2021. That the appeal filed by the petitioner has been dealt with in the mechanical manner without adverting to the various grounds raised in the appeal.

4. Learned counsel stated that the Authority concerned, i.e., the primary authority, while dealing with the case has not adverted to the explanation submitted by the petitioner and passed the order of cancellation contrary to the provisions of the Control Order. Therefore, learned counsel for the petitioner has prayed this Hon'ble Court to set aside the impugned order dated 22.02.2021 passed by Sub Divisional Officer, Lakhisarai and remand the matter back to the Authority



concerned for passing order afresh duly taking into consideration explanation submitted by the petitioner and also granting him an opportunity of hearing.

5. Per contra, learned counsel appearing on behalf of the respondents has vehemently opposed the maintainability of the present writ petition and stated that the petitioner has alternative and efficacious remedy of filing a revision before the Divisional Commissioner under Rule 32 (vi) of the Control Order. Learned counsel has stated that petitioner instead of availing the alternative remedy of revision has straightaway come to this Hon'ble Court and prayed for the dismissing the present writ petition.

6. Admittedly, in the present case as seen from the record, the Authority (Sub Divisional Officer, Lakhisarai) has posted the matter for hearing on 18.08.2020 and on which date, the petitioner has submitted a representation seeking adjournment of the case due to ill health, however, the same has not been considered by the authority concerned and the impugned order of cancellation was passed. It is pertinent to note that order of cancellation was passed on 22.01.2021, i.e., after a period of nearly five months from the last date of hearing, i.e., on 18.08.2020. When the authority has waited for



5 months to pass an order, he could have granted an opportunity of hearing to the petitioner but for reasons best known to him, the authority did not deem it necessary to grant time to the petitioner but has waited for a period of 5 months for passing the impugned order of cancellation. Further, as seen from the impugned order, the explanation submitted by the petitioner has not been dealt with by the authority concerned and the order is passed in a mechanical manner. Even though the petitioner has raised several grounds in the appeal, the Appellate Authority has also not adverted to the grounds raised but has simply rejected the appeal on the ground that an F.I.R. is filed against petitioner.

7. Having regard to the above, this Court deems it fit to set aside both the orders, i.e., Order dated 20.06.2022 passed in Supply Appeal No.07 of 2022 by the District Magistrate, Lakhisarai and Memo No.35 dated 22.01.2021 passed by the learned S.D.O. Lakhisarai and remand the matter back to the Sub Divisional Officer for passing a reasoned order afresh duly taking into consideration the explanation submitted by the petitioner.

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



period of eight weeks from the date of receipt of a copy of this  
Order. Any order passed shall be communicated to the parties.

9. With the above direction, this writ petition stands  
disposed of.

**(A. Abhishek Reddy , J)**

sanjeev/-

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