

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12724 of 2022

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Raj Kumar Chaudhary, (Male) aged about 57 years, Son of late Ragho Choudhary, resident of Village-Chewara, P.S. - Sheikhpura District-Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar..
2. The District Magistrate, Sheikhpura.
3. The Sub Divisional Officer, Sub-Division-Sheikhpura, District- Sheikhpura.
4. The Block Supply Officer Block-Chewara District - Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate with
Mr. Sushmita Mishra, Advocate.

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

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

6 23-07-2024 Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the following reliefs:-

“For issuance of a rule in the nature of writ of certiorari for quashing the order dated 22.06.2022 passed by the Respondent No. 3, the Sub-Divisional Officer, Sheikhpura contained in Memo No. 9 whereby and whereunder the Public Distribution System Licence No. 02/2003 of the petitioner has been cancelled without whispering even a single word about the reply given by the petitioner to the show cause notice on the premises that it is unsatisfactory and aforesaid show cause notice was issued



in the light of the inspection report prepared by the Respondent No. 2, the District Magistrate Sheikhpura who is the Appellate Authority and he had virtually directed the Licencing Authority i.e. the Respondent No. 3, the Sub-Divisional Officer, Sheikhpura to take suitable action against the petitioner within one week and inform him regarding this.

(ii) For issuance of a rule in the nature of writ of Mandamus commanding the respondents to follow the provisions of the Bihar Targeted Public Distribution Control Order, 2016 (For short BTPDS order) in a just a proper manner.”

3. Learned counsel appearing on behalf of the petitioner has stated that the petitioner was not given any opportunity to cross-examine the complainants who are alleged to have made the complaint against the petitioner. That unless and until the petitioner is afforded an opportunity to confront the complainants, the veracity of the statements made before the Block Supply Officer cannot be taken as true and cannot be relied by the authority for cancelling the license of the petitioner. That the authority without considering the above issue has cancelled the license in a mechanical manner. Learned counsel has stated that aggrieved by the orders of cancellation passed by the Sub-Divisional Officer, the petitioner has



preferred statutory appeal before the concerned authorities but he has also dismissed the appeal in a mechanical manner without adverting to the above stated facts.

4. This Court in CWJC No. 2477 of 2019 vide order dated 29.04.2019 had held as under:-

“The petitioner submitted his reply along with the affidavit(s) of the consumers but those affidavits were not accepted by the Sub-Divisional Officer, Nimchak Bathani, Gaya saying that those affidavit(s) have been managed. In the opinion of this Court, once the petitioner was able to place on record the affidavit(s) of the consumers, the veracity of the complaint were required to be examined by conducting necessary verification by the Sub-Divisional Officer and only thereupon an independent view of the matter could have been taken. It has been done in the present case. For these reasons the impugned order is liable to be held bad.”

5. As seen from the record, the officer concerned has not conducted any enquiry to test the veracity of the complaints made by the consumers. The authorities concerned ought to have examined the consumers and given an opportunity to the petitioner to cross-examine the consumers.

6. Having regard to the above made submissions, this Court is of the opinion that the impugned order dated



22.06.2022 is liable to be set aside and the matter remanded back to the Sub-Divisional Officer concerned for passing orders afresh duly taking into consideration the explanations submitted by the petitioner and also cross-examining the complaints.

7. Accordingly, the orders impugned is set aside and the writ petition is allowed to the extent indicated above. The Sub-Divisional Officer concerned shall put the petitioner on notice duly giving him an opportunity of cross-examining the complaints or leading any evidence, the matter shall be decided on merits in accordance with law. The Sub-Divisional Officer concerned shall endeavour to see that the case is disposed of as expeditiously as possible preferably within a period of ten weeks from the date of the receipt of the copy of this order. It is needless to mention that before passing any order, the petitioner shall be given an opportunity of hearing. Any order passed shall be communicated to the parties.

8. With the above direction, the present writ petition stands allowed.

(A. Abhishek Reddy , J)

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