

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11330 of 2023

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Santosh Kumar Son of Late Sarv Lal Manjhi @ Sarb Lal Harijan Resident of
Village- Dubaili, Ward No. 3, Post- Tauli Kola (Baraidgah), P.S.- Dagarua,
Block- Dagarua, District- Purnia, Bihar- 854330.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply,
Government of Bihar, Patna.
2. The Principal Secretary, Food and Civil Supply, Bihar, Patna.
3. The District Magistrate, Purnea.
4. The District Supply Officer, Purnea.
5. The Sub- Divisional Officer, Baisi, District- Purnea.
6. The Block Supply Officer, Dagarua, District- Purnea.
7. The Officer-in-charge, Dagarua P.S., District- Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajiv Ranjan, Adv.
For the Respondent/s : Mr. Arvind Ujjwal (Sc4)

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

5 07-05-2024 Heard the learned counsel for the parties.

The present writ petition has been filed for the
following reliefs:-

*“That this is an application for the issuance
of appropriate writ or order/orders as direction or
directions commanding the respondents to absolve the
late father of the petitioner of wrongful and baseless
charges leading to cancellation of his PDS shop by
quashing the order of cancellation dated 26.04.2020 vide
memo no. 1536 Baisi and appoint the petitioner, instead,
as a PDS dealer on the compassionate ground. It is
important to mention here that late father of the
petitioner died during treatment after he was brutally
assaulted by local goons against whom he had lodged a
complaint on 12.02.2020 of torture and threatening of
murder.”*



3. Learned counsel for the petitioner has assailed the order dated 26.04.2020 impugned in the present CWJC on the following three grounds;

i. That the complainants who have alleged to have made the complaint are not the beneficiaries of the petitioner's dealership.

ii. That the official respondents have not given sufficient time to the petitioner for filing his detailed explanation.

iii. That the order of cancellation is contrary to the judgment of this Hon'ble High Court passed in LPA in 861 of 2004 dated 06.09.2004.

4. Learned counsel for the petitioner has stated that only three days time has been granted to the petitioner for filing his explanation to the Show Cause Notice. That the Show Cause Notice dated 23.04.2020 was received by the father of the petitioner on 25.04.2020 which happens to be a Saturday and the petitioner immediately after receipt of the same had submitted his explanation on 27.04.2020. And the impugned order is passed by the Sub-Divisional Officer, Baisi, District-Purnea on 26.04.2020. Further, it is stated that in the month of April, 2020 the entire country was locked down due to Covid-19



Pandemic and the petitioner could not attend the office of the Sub-Divisional Officer, Baisi, District Purnea, personally.

5. Further, it is stated that Sub-Divisional Officer, Baisi, District Purnea vide order dated 26.04.2020 has cancelled the licence of the petitioner solely on the ground that the petitioner has not submitted his explanation to the show cause notice. That the Sub-Divisional Officer did not pass the order on merits of the case and passed the order in a mechanical manner.

6. Learned counsel has further stated that the matter is fairly covered by the judgment of a Division Bench of this Hon'ble Court passed in L.P.A. No. 861 of 2004 dated 06.09.2004, wherein this Hon'ble Court has held that even if the licence holder does not file any explanation to the Show Cause Notice, the Authority concerned are legally bound to pass the orders on merits. Therefore, the learned counsel seeks the indulgence of this Court to set aside the impugned orders and remand the matter back to the authority concerned for passing orders afresh on merits.

7. *Per contra*, the learned the learned counsel appearing on behalf of the respondents while conceding to the Judgment of this Hon'ble Court referred above has stated that he has no objection for setting aside the impugned orders and



remand the matter back to the authority concerned for passing orders afresh.

8. Having regard to the above made submissions and the law laid down in LPA No. 861 of 2004 dated 06.09.2004, the impugned order dated 26.04.2020 is set aside. The matter is remanded back to the Sub-Divisional Officer, Baisi, District-Purnea (Respondent No. 5) for passing a reasoned order afresh strictly in accordance with law. The authority concerned shall give an opportunity to the petitioner to file his explanation afresh and then pass the order duly taking into consideration the explanation submitted by the petitioner.

9. It is needless to mention that before passing any order, the petitioner shall be given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possibly preferably within a period of eight weeks from the date of receipt of the copy of this order. Any order passed shall be communicated to the party.

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

(A. Abhishek Reddy, J)

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