

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14082 of 2022

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Arun Kumar Sharma Son of Late Radhey Shyam Prasad Resident of Village
and P.O. and P.S.-Sare, District-Nalanda. ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection department, Govt. of Bihar, Patna.
 2. The District Magistrate, Nalanda at Biharsharif.
 3. The Sub-Divisional Officer, Biharsharif, District-Nalanda.
 4. The Block Development Officer, Asthawan, District-Nalanda.
 5. The Block Supply Officer, Asthawan, District-Nalanda. ... Respondents
- =====

Appearance :

For the Petitioner : Mr.Rabindra Kumar, Adv.
For the Respondents : Mr.Arvind Ujjwal (Sc4)

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

3 12-11-2024 Heard the parties.

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

I. For quashing of order dated 20.4.2018 in Complaint Case No.2 of 2018 passed by Sub-Divisional Officer, Biharsharif, Nalanda in respect of show cause order dated 8.3.2018, contained in Annexure-3 and for quashing of order dated 4.2.2021 in Supply Case No. 14/2018 passed by District Magistrate, Nalanda contained in Annexure-3-A cancelling Licence No.54/ Asthawan/2016 which was issued to the petitioner for running of a shop under Public Distribution System.

II. For further direction commanding the respondents to restore the supply and distribution of petitioners



fair price shop forthwith under Licence No.54 of 2016.

III. During pendency of this application, the operation of order impugned/Annexure-3 and 3-A may be kept in abeyance with direction to allow the functioning of petitioner's fair price shop being his only source of livelihood which has been snatched illegally and unconstitutionally.

IV. For any other relief/reliefs to which the petitioner may be entitled to.

3. Learned counsel for the petitioner has stated that though the petitioner has submitted a detailed explanation to the show cause notice the authority has not dealt with the explanation submitted by the petitioner and cancelled the license issued in favour of the petitioner by passing a cryptic order. Counsel has stated that the petitioner has submitted a detailed explanation however the authority has not considered the same. Though the petitioner has filed an appeal against the order of cancellation, the Appellate Authority has also dealt with the appeal in a mechanical manner. Learned counsel has relied on the judgment of the Hon'ble Court reported in **2018 (4) PLJR 518** (Mahesh Kumar Agrawal Vrs. the Sought Bihar Power



Distribution Company Limited & Ors.) to support his case.

2. Per contra the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present Writ Petition stating that the petitioner has an alternative and efficacious remedy of filing a statutory revision, but the petitioner without availing the same has straightaway approached this Hon'ble Court. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present Writ Petition and relegate the petitioner to the Revisional Authority.

3. A perusal of the impugned order reveals that the authority has not dealt with the explanation submitted by the petitioner to the show cause notice. The order does not advert to the explanation given by the petitioner and same is passed in a mechanical manner without adverting to the same. This Hon'ble Court in **2018 (4) PLJR 518** has held as under :

“..... impugned action is not sustainable inasmuch as the petitioner gave a detailed explanation and justification against the proposed action, as is contained in Annexure 6, and in a cryptic manner, without considering the explanation and defence of the petitioner, his license has been cancelled. This amounts to violation of principles of natural justice inasmuch as the non-application of mind and passing



*an order adverse to or prejudice to a person without considering his defence is also a facet and the requirement of principles of natural justice and this having not been followed, we are of the considered view that principle laid down in the case of **Whirlpool Corporation** (supra) squarely applies in this case. The order impugned suffers from material legal infirmity and on this count itself without relegating to the petitioner to take recourse to the statutory remedy available, the question could have been considered by the learned Writ Court as is apparent from the face of record that there is statutory violation or violation of the principles of natural justice.”*

4. Having regard to the above, the impugned order passed by the appellate as well as the primary authority are aside aside and the matter is remanded back to the Sub Divisional Officer (Respondent No. 3) for passing orders afresh duly taking into consideration the explanation submitted by the petitioner.

5. It is needless to mention that before passing any orders, the party shall be put on notice and given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably 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.



6. The Writ Petition is **disposed of** with the directions
made above.

(A. Abhishek Reddy , J)

Shamshad/-

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