

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15656 of 2022

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Sohan Kumar Son of Ramabriksha Mochi, Resident of Village - Champapur,
P.S. - Bakhtiyarpur, District – Patna ... Petitioner

Versus

1. The State of Bihar through its Principal Secretary, Consumer and Protection Department, Government of Bihar, Old Secretariat, Patna.
 2. The District Magistrate, Patna.
 3. The Sub-Divisional Officer, Barh, Patna.
 4. The Block Development Officer, Bakhtiyarpur, Patna. ... Respondents
- =====

Appearance :

For the Petitioner : Mr.Vijay Anand, Adv.
For the Respondents : Mr.Arvind Ujjwal (Sc 4)

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

3 09-01-2024 Heard the learned counsel for the parties.

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

“..... for challenging the order dated 17.06.2022 passed by Sub-Divisional Officer, Barh fully contained in the Memo No. 409 whereby and whereunder the License granted to the petitioner on the compassionate basis was cancelled basically on the ground that the father of the petitioner obtained senior citizen pension showing his age is more than 60 year prior to death and as such the petitioner is not entitled to get the PDS license on compassionate basis.”

3. This is the case of the petitioner that he was issued PDS license on compassionate basis after the death of his father. Learned counsel has stated that as per the terms and conditions of Rule 10 of the Bihar Targeted Public Distribution System (Control) Order, 2016, if any PDS licensee dies before the age



of 58 years, then, the legal heirs of the license holder are eligible to apply for PDS license under the compassionate ground. Learned counsel has stated that the father of the petitioner has died on 08.03.2017 and, thereafter, the petitioner has applied for the PDS incense to be granted to him. That after due scrutiny and verification, the license was granted in favour of the petitioner.

4. That the petitioner from the date of issuance of the license granted to him has been running the PDS shop without any complaint from any quarter. That one Uday Kumar, who is a resident of village Naya Tola Dedaur, P.S. Bakhtiyarpur, Patna, seems to have written a letter the Chief Minister, Bihar, Patna, with the allegation that the petitioner managed to get the PDS license on the basis of some forged certificate. Thereafter, a show cause notice, dated 13.05.2022, has been issued to the petitioner vide Memo No. 328 in which an allegation was made that the PDS license allotted to the petitioner was on the basis of a forged document and that the father of the petitioner was receiving pension as on the date of his death. The petitioner has submitted a detailed explanation and along with the same the petitioner has also field the school transfer certificate of his father and also the voter list which shows the age of the father



of the petitioner. However, the authority concerned without considering the documents has submitted by the petitioner along with the show cause notice passed the impugned order cancelling the license of the petitioner. Learned counsel has stated that the petitioner cannot be blamed for the lapses, if any, committed by the father. The authority concerned ought to have considered the school transfer certificate as well as the voter list showing the age of the father of the petitioner before passing the impugned order of cancellation. Learned counsel has, therefore, prayed this Hon'ble Court to allow the present writ petition by setting aside the impugned order and remand the matter back to the authority concerned for passing orders afresh duly taking into consideration the explanation submitted by the petitioner and also the documents filed along with the said explanation.

5. Per contra, the learned counsel appearing on behalf of the respondents has stated that the present writ petition is not maintainable and the same is liable to be dismissed on the sole ground that the petitioner has obtained the PDS license by playing fraud. Learned counsel has stated that the authority concerned has passed a reasoned order duly taking into consideration the fact that the father of the petitioner was aged, more than 58 years as on the date of his death, and was



receiving the pension, therefore, learned counsel has prayed this Hon'ble Court to dismiss the writ petition.

6. A reading of the show cause notice issued to the petitioner reveals that the petitioner was granted PDS license on compassionate ground on the death of his father. Admittedly, the father of the petitioner has died on 08.03.2017. However, subsequently the authority concerned on the allegation that the father of the petitioner was receiving pension as on the date of his death have issued show cause notice seeking to cancel the PDS license of the petitioner. Though the petitioner has submitted a detailed explanation duly enclosing the copy of the school transfer certificate of the father and also the voter list showing the age of the father, the impugned order has been passed without considering the above said documents. The authority concerned having issued a show cause notice to the petitioner and calling for his explanation ought to have considered the explanation along with the documents filed by the petitioner. The non-consideration of the said explanation and also the documents filed by the petitioner is against the principles of natural justice and equity. The very purpose for which the show cause notice is issued and explanation called will be defeated if the said explanation along with the document



has not being considered by the authorities. Non-consideration of the explanation submitted along with supporting documents by the authority concerned while passing the order has being held to be bad, illegal and arbitrary exercise of power in a catena of cases by the Hon'ble Supreme Court as well various High Courts time and again.

7. Having regard to the same the impugned order is set aside and the matter is remanded back to the authorities concerned for passing orders afresh. The authority shall before passing order take into consideration the explanation submitted by the petitioner and also the school transfer certificate of the father of the petitioner and the voter list showing the age of the petitioner. The authority shall pass a reasoned order setting out the reasons. It is made clear that this Court has not gone into the merits of the case and the authority is directed to pass order strictly on merits in accordance with law.

8. 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 possible preferably within a period of 8 weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the petitioner.



9. With the above direction, the writ petition stands
allowed to the extent indicated.

(A. Abhishek Reddy , J)

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