

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20168 of 2019

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Nagendra Singh S/o Late Mangal Singh, Resident of Village- Sarwarpur, P.O.- Sarwarpur, P.S.- Tariyani, District- Sheohar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Commissioner, Trihut Division, Muzaffarpur.
3. The Collector, Sheohar.
4. The Sub Divisional Officer, Sheohar.
5. The Block Supply Officer, Tariyani, District- Sheohar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Kumar Rajdeep, Mr. Arvind Kumar, Ms. Diksha Kumari, Advocates
For the Respondent/s	:	Mr. Anisul Haque, AC to AAG5

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

4 06-02-2024 Heard learned counsel for the parties.

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

“That the present writ application is being filed on behalf of the petitioner above named for setting aside the order contained in memo no. 369 dated 05.12.2015 by which the PDS license of the petitioner has been cancelled by the learned Sub-Division Officer, Sheohar and further for quashing the order dated 07.06.2016 passed in Supply Appeal Case No. 07/2016 by the District Magistrate, Sheohar by which he was pleased



to dismiss the appeal filed on behalf of the petitioner and further for quashing the order dated 02.07.2019 passed in PDS Revision Case No. 31/2018 passed by the learned Commissioner, Tirhut Division, Muzaffarpur dismissed the revision petition and affirmed the order of the learned Licensing Authority as well as the learned Appellate Authority and further be pleased to restore the license and supply of the petitioner.”

3. Learned counsel appearing on behalf of the petitioner has stated that in the show cause notice issued to the petitioner, there were four grounds on which license of the petitioner was sought to be cancelled. However, Sub-Division Officer has passed the order without considering the show-cause/explanation submitted by the petitioner and has only stated that explanation submitted by the petitioner is not satisfactory. Further, learned counsel has stated that the authority has cancelled the license of the petitioner on six grounds whereas the show-cause notice was issued only on four grounds.

4. *Per contra* the learned counsel for the respondents has vehemently opposed the very maintainability of the present Writ Petition.



Learned counsel has stated that the orders passed by the authorities are well reasoned orders and do not require any interference by this Court and prayed to dismiss the present Writ Petition.

5. A perusal of the order passed by the Sub-Divisional Magistrate shows that the Sub-Divisional Magistrate while passing the orders has not adverted to the explanation submitted by the petitioner. Even though the petitioner has given a detailed explanation to the show cause notice, the Sub-Divisional Magistrate has not discussed the explanation submitted by the petitioner and passed the orders in a mechanical manner. This Court in a catena of cases, has held that any order that is passed has to contain the reasons for passing the said orders. Unless and until the reasons are given in the impugned order the superior authority or the Court will not be in a position to appreciate the order passed and the reason for the order being passed. In absence of any reasons in the order, it would be very difficult to either sustain or set aside the said order. Any order which is not speaking order cannot be sustained in the eye of law and the same has to be necessarily set aside.

6. This Court as well as the Apex Court, on number



of occasions have held that any authority Court/quasi judicial authority have to necessarily give reasoning in the order passed by them. Unless reasoning is given in the order, neither the party nor Courts before whom the order is challenged will be in a position to appreciate as to what has weighed with the said authority either for dismissing or allowing the application of the petitioner. Though the quasi judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial order, yet they are expected to give a reasoned order which should be precise, concisely setting out the reason for allowing or dismissing the contention/application/case.

7. In *Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota vs. Shukla and Brothers*, reported in (2010) 4 SCC, 785, the Hon'ble Supreme Court has held as under:

“..... while exercising the power of judicial review on administrative action and more particularly the judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic essentials. Firstly: a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard Secondly, the authority concerned should



provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.....”

“.....A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer Reasons are the soul of orders Non- recording of reasons could lead to dual infirmities: Firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. The orders of the court must reflect what weighed with the court in granting or declining the relief claimed by the applicant.”

8. Having regard to the above mentioned facts and circumstances, the impugned order dated 05.12.2015 passed by the Sub-Division Officer, Sheohar i.e. Respondent No. 2, order dated 07.06.2016 passed in Supply Case No. 07/2016 by District Magistrate, Sheohar and order dated 02.07.2019 passed by Commissioner, Tirhut Division, Muzaffarpur are set aside and the matter is remanded back to the Sub-Divisional Magistrate for passing orders afresh. The Sub-Divisional Officer shall pass a reasoned order duly taking into account the various contentions raised by the petitioner in his explanation.



9. It is needless to mention that before passing any order the petitioner 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 the copy of this order. Any order passed shall be communicated to the party.

10. Accordingly, the present Writ Petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

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