

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1239 of 2023

=====

M/s Harinandan Traders, Basmatiya Bazar through its proprietor Harinandan Gupta @ Harinandan Prasad Gupta, Aged about - 59 Years, Male, Son of Late - Sukdev Sah, Resident of Village and P.O. - Basmatiya, Block - Narpatganj, P.S. - Basmatiya, District- Araria ... Petitioner

Versus

1. The State of Bihar through the Secretary, Agriculture Department, Government of Bihar, Patna.
2. The Joint Director Agriculture and Fertilizer, Purnia Circle Purnia cum Appellate Authority, Purnia.
3. The District Appellate Officer, Araria.
4. The District Agriculture Officer, Araria. ... Respondents

=====

Appearance :

For the Petitioner	:	Mr.N.K. Agrawal, Sr. Adv. with M/s Arvind Kumar, Kumar Rajdeep & Diksha Kumari, Advs.
For the Respondents	:	Mr.Raghwanand, GA XI with Mr. Rajnish Shandilya, AC to GA XI

=====

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

5 12-09-2024 Heard the learned counsel for the parties.

2. The only issue in the present case is as to whether official respondents have issued any show cause notice to the petitioner calling for his explanation before passing the impugned order of cancellation or not.

3. In the counter affidavit filed by the respondents, it is admitted that the impugned order of cancellation dated 24.08.2022 vide Memo No. 2466, has been passed without issuance of any show cause notice to the petitioner. It is further stated that the petitioner has himself admitted that the seized fertilizer belonged to him and it was carried out by him only for



the purpose of black marketing and hoarding. When queried by this Court, the learned counsel for the respondents has drawn the attention of this Court to Annexure 'A' series, which is the statement made by the petitioner admitting that the seized fertilizer belonged to him and he is indulging in black marketing. However, it is to be noted that on the bottom of the said statement there is no signature of the petitioner but only left thumb impression (LTI). It is pertinent to note that the petitioner has filed the present Writ Petition by appending his signature, therefore it is doubtful as to whether the LTI affixed on the so called admission/statement is that of the petitioner or not.

4. Having regard to the admitted fact that no show cause notice was issued to the petitioner prior to the passing of the impugned order the same has to be termed as being in violation of principles of natural justice and equity and the same has to be set aside and the same is accordingly set aside. Once it is held that the initial order of cancellation is held to be illegal, bad and arbitrary the subsequent order passed by the Appellate Authority does not have any legs to stand on its own and therefore the same is also liable to be set aside and is accordingly set aside.



5. The matter is remanded back to the Respondent No. 4. In case the Respondent No. 4 is of the opinion that action needs to be taken against the petitioner they shall issue a fresh show cause notice to the petitioner containing all the details of the allegations. The petitioner shall be asked for his explanation by giving him reasonable time and thereafter a reasoned order will be passed.

6. It is needless to mention that before passing any orders, the petitioner shall be 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.

7. With the above directions, this Writ Petition is disposed of.

(A. Abhishek Reddy , J)

Shamshad/-

U			
---	--	--	--

