

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16812 of 2022

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Rajesh Kumar Singh son of Late Sarweshwar Prasad Singh, Resident of Village-Beldiha, P.S. Dhoraiya and Dist. Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through Sub-Divisional Officer, Banka, Dist. Banka.
2. The Principal Secretary, Department of Food and Civil Supply, Govt. of Bihar, Patna.
3. Divisional Commissioner, Bhagalpur Division, Bhagalpur.
4. District Magistrate, Banka.
5. Sub-Divisional Officer, Banka, Dist. Banka.
6. District Supply Officer, Banka.
7. Block Supply Officer, Dhoraiya, Dist. Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prabhat Ranjan Singh
For the Respondent/s : Mr.Arvind Ujjwal (Sc 4)

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

6 23-04-2024 Heard the parties.

2. This writ petition has been filed for the following
reliefs:-

I. That the order contained in Memo No.12/Aa/Banka dated 25.11.2019 passed by Respondent No.5 be quashed and set aside as well as its appellate order passed in Aapurti Appeal Case No. 608/19-20 dated 4.2.2022 passed by learned Collector-cum-District Magistrate (Respondent No.4 be also quashed and set aside as well as Revisional order date 7.9.2022 passed in Supply Revision Case No. 07/2022-23 by respondent No.3 be also quashed and set aside.

II. That, during pendency of this petition operations of impugned orders passed by Licensing authority (Respondent No.5) dated 25.11.2019 appellate



order dated 4.2.2022 by respondent No.4 and also revisional order dated 06.09.2022 passed by respondent No.3 may kindly be stayed.

3. Learned counsel appearing on behalf of the State submits that the petitioner has received show cause notice, Annexure-1, alleging certain irregularities, thereafter another show cause notice has been received, Annexure-3, having another set of allegations. The learned counsel has stated that the inspection of the shop took place on 06.10.2019 and authority in its wisdom issued show cause notice dated 06.10.2019 to which the petitioner has given a suitable explanation, however, the authorities have issued another notice on 14.10.2019 with another set of allegations. That the Divisional Officer without adverting to the explanation has passed the impugned order of cancellation. Though the petitioner has preferred an appeal before the Appellate Authority, the same was disposed of without adverting to the grounds raised by the petitioner. The Revisional authority has also dealt with the matter in a mechanical manner and dismissed the Revision. Learned counsel has stated that initial show cause notice dated 06.10.2019 and dated 14.09.2019, Annexure-3, the allegations are totally different and the same is violative of principle of natural justice and equity.



4. The learned counsel has prayed that this Hon'ble Court may be pleased to set aside the impugned order of cancellation, the order passed by the appellate and that of the revisional authority and remand the matter back to the concerned authorities for fresh notice with the correct allegations and give an opportunity to the petitioner to file his explanation and then pass a reasoned order.

5. Per contra the learned counsel appearing on behalf of the respondents has vehemently opposed the maintainability of the present writ petition. Learned counsel has stated that the authorities duly taking into consideration the explanation submitted by the petitioner and being satisfied has passed the impugned order of cancellation. That both the appellate as well as revisional authority have passed the order in accordance with law and the same does not need any interference by this Court. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. Admittedly, as seen from the record, petitioner was initially issued notice on 6.10.2019 alleging 7 irregularities found by the inspecting team which inspected the shop on 6.10.2019 and to which the petitioner has given a suitable reply on 11.09.2019. The authorities for reasons best known to them



has again issued another show cause notice dt. 19.10.2019 with another set of 5 allegations. Further, a copy of enquiry report has also not been furnished to the petitioner. Further, it is pertinent to note that the impugned order of cancellation has new ground for cancelling the license of the petitioner, there is no allegation in the two show cause notices regarding the said new ground. There is in violation of principle of natural justice and equity. The authorities while issuing the show cause notice have to give the complete details of the allegations made against the petitioner but they cannot do so in piecemeal manner as seen in this particular case. Therefore, this Court is constrained to set aside the impugned order passed by the Divisional authority, Appellate Authority and as well as primary authority and the remand the matter back to the primary authority for issuing a fresh show cause notice to the petitioner containing the allegations against the petitioner and also furnish a copy of the enquiry report. The authority shall give reasonable time to the petitioner to submit its explanation and after receipt of the explanation by the petitioner, the authority shall consider the same and pass a reasoned order.

7. 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 with a period 12 weeks from the date of receipt of the copy of this order. Any order passed shall be communicated to the parties.

8. With the above observation and directions, this writ petition stands disposed of.

(A. Abhishek Reddy , J)

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