

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16436 of 2023

Bachchu Prakash Madhukar Son of- Musafir Ray Resident of village-
Bhadwas, Vaishali, P.S.- Mahua, District- Vaishali, Bihar-844122
... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Divisional Commissioner Circle- Tirhut, Muzzafarpur.
3. The District Magistrate Vaishali at Hajipur.
4. The Sub Divisional Officer Sadar, Mahua, Vaishali at Hajipur.
5. The Block Supply Officer cum Assistant Sub- Divisional Officer District- Vaishali at Hajipur.
... Respondents

Appearance :

For the Petitioner : Mr. N.K. Agarwal, Sr. Adv. with
M/s D.N. Tiwari & Kumar Rajdeep, Advs.
For the Respondents : Mr. Anisul Haque, AC to AAG V

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

4 20-06-2024 Heard the parties.

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

“..... For issuance of a writ in the nature of Certiorari for quashing the order dated 10.08.2020 passed by the SDO, Sadar, Mahua, Vaishali at Hajipur (Annexure- 6), the appellate order dated 15.12.2022 passed by the District Magistrate, Vaishali at Hajipur (Annexure-8) and also the revisional order dated 05.09.2023 passed by the Divisional Commissioner, Tirhut, Muzzafarpur (Annexure-9) whereby and where under the Public Distribution License of the Petitioner bearing License No. 97/2016 has been cancelled on totally non-est and erroneous grounds in completely mechanical manner- without considering the reply of the Petitioner.”



3. The Sub Divisional Officer concerned has issued the first show cause notice to the petitioner alleging that on the date of inspection, i.e., 14.09.2019 the shop of the petitioner was closed. Thereafter, after lapse of approximately eight months another inspection took place on 23.04.2020 based on which a fresh show cause notice, dated 27.04.2020, was issued to the petitioner alleging that the petitioner is not supplying the grains properly to the beneficiaries. Thereafter, the authorities have issued the 3rd show cause notice, dated 07.07.2020, however, in the said show cause notice no allegations have been made but the enquiry reports conducted by the Assistant Sub Divisional Officer and Circle Inspector were furnished to the petitioner. Though the petitioner has given suitable reply to the allegations made against the petitioner, the authority concerned has not considered the same and passed the order of cancellation based on the opinion given by the Assistant Sub Divisional Officer. Learned counsel for the petitioner has stated that the details of the beneficiaries who have given the complaint against the petitioner have not been disclosed to the petitioner, neither their statements were made available nor the said beneficiaries were examined by the authority concerned and no opportunity of



cross-examination was given to the petitioner so as to enable the petitioner to test the veracity of the allegation made against him. That the Sub Divisional Officer without adverting to the explanation submitted by the petitioner has in a mechanical manner cancelled the PDS license of the petitioner. That though the petitioner preferred a statutory appeal and revision before the appellate as well as the revisional authority they have not dealt with the grounds of appeal/revision and has dismissed the appeal/revision in a mechanical manner without application of mind. Learned counsel has, therefore, prayed this Hon'ble Court to allow the present Writ Petition by setting aside the orders passed by the Sub Divisional Officer, the Appellate Authority and as well as that of Revisional Authority and remand the matter back to the Sub Divisional Officer for passing orders afresh furnishing a copy of the statement made by the beneficiaries.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the Writ Petition. Learned counsel has stated that the appellate as well as revisional authorities have passed a reasoned order duly taking into consideration the grounds raised by the petitioner. Learned counsel has stated that all the three



authorities, i.e., the primary authority, the appellate authority as well as the revisional authority have found various discrepancies and violation of the Bihar Targeted Public Distribution System (Control) Order, 2016, against the petitioner and passed a reasoned order and the same does not call for any interference and, therefore, prayed this Hon'ble Court to dismiss the present Writ Petition.

5. A perusal of the impugned order passed by the Sub Divisional Officer reveals that the Sub Divisional Officer has not examined the beneficiaries who have made the allegations against the petitioner. Further the Sub Divisional Officer has not adverted to the explanation given by the petitioner to the show cause notice but has relied on the opinion given by the Assistant Sub Divisional Officer and the Circle Inspector. This Court as well as the Hon'ble Supreme Court in a catena of decisions has time and again held that the authority is obligated to pass a reasoned order independently without being influenced by any opinion on report submitted by its subordinate. The authorities cannot rely solely on the opinion of its subordinates and pass the order. More over, as seen from the records neither the names of the beneficiaries nor their statements have been made available to the petitioner, which is against the principles



of natural justice and equity. Both the appellate as well as the revisional authority have also not considered the grounds raised by the petitioner in proper perspective and passed the order in a mechanical manner. This Court is of the opinion that the orders passed by the Revisional Authority, dated 05.09.2023, the Appellate Authority, dated 15.12.2022, and the Sub Divisional Officer, dated 10.08.2020 have to be necessarily set aside the matter remanded back to the Sub Divisional Officer for passing orders afresh duly putting the petitioner on notice and also furnishing him the names of the beneficiaries who have given the complaint and their statements, if any. The authorities shall also give an opportunity to the petitioner to cross examine the beneficiaries. The entire exercise shall be completed as expeditiously as possible, preferably within a period of 12 weeks from the date of receipt of a copy of this order. Any orders passed shall be communicated to the petitioner.

6. With the above direction, the Writ Petition stands disposed of.

(A. Abhishek Reddy , J)

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