

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17135 of 2024

Manmohan Sah (P.D.S. Dealer), Son of Lt Ashrafi Sah Resident of Village-
Ranikitta Panchayat -Gorgama P.S.-Amarpura District- Banka

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Banka
3. The Sub Divisional Officer, Banka
4. The Block Supply Officer, Amarpur, Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Adv.
	:	Mr. Kumar Rajdeep, Adv.
For the Respondent/s	:	Mr. Standing Counsel 4

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

2 03-12-2024

Heard the learned counsel for the parties.

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

“For issuance of a writ in nature of the Certiorari for quashing the Order dated 13.08.2024 passed in Supply Appeal No. 78/23-24 by the District Magistrate, Bank which was filed against the order dated 30.11.2023 passed by of Sub Divisional Officer, Banka by which P.D.S. license No. 09/2019 of the petitioner was cancelled are liable to be set aside as the order passed by Respondent No. 3 (the Sub Divisional Officer, Banka) is on the grounds for which no notice was supplied to the petitioner and passed without cross examining the consumers and without serving the copy of inspection report to the PDS dealer (Petitioner) and passing the order of cancellation of license of the petitioner in violation of the principles of Natural Justice, in as much as the Impugned Orders have been passed without considering the facts and circumstances of the case.”

3. Learned counsel for the petitioner has stated that

the authorities have issued the show cause notice (Annexure-



P/1) and in the said show cause notice, the names of the consumers have not been mentioned and neither the copy of the enquiry report has been enclosed. Though the petitioner has filed the detailed explanation to the said show cause notice, the same was not taken into consideration. Learned counsel has stated that the authority while passing the order has also taken into consideration the enquiry report of 2021 which admittedly has not been furnished to the petitioner. Further, the affidavits of the consumers given by the petitioner were also not taken into consideration and neither any consumers were examined by the authorities therefore, the veracity of the statement made by the said consumers is under cloud.

4. *Per contra*, the learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner is having an alternative and efficacious remedy of filing a revision before the authority but without availing the same, the petitioner has straightaway approached this Hon'ble Court.

5. Admittedly, as seen from the record, the copy of the enquiry has not been enclosed along with the show cause notice and neither the names of the consumers who have given complaints have been mentioned in the said show cause notice.



Though the petitioner has submitted his explanation along with the affidavits of the consumers who are stated to have retracted their complaints neither they were examined nor the said affidavits were taken into consideration while passing the order.

6. As seen from the record, the officer concerned has not conducted any enquiry to test the veracity of the complaints made by the consumers. Moreover, the officer has not taken into consideration the affidavits of the consumers submitted by the petitioner. There is no evidence to substantiate the allegations made against the petitioner through independent witness or any consumers, the authorities concerned ought to have examined the consumer and given an opportunity to the petitioner to cross-examine the consumers. However, in this case, even the order of the Appellate is passed in a mechanical manner without adverting to any of the grounds raised by the petitioner in the appeal and revision.

7. Having regard to the above made submissions, this Court is of the opinion that the impugned orders are liable to be set aside and the matter remanded back to the Sub-Divisional Officer concerned for passing orders afresh duly taking into consideration the explanations submitted by the petitioner along with the affidavits of the consumers.



8. Accordingly, the orders are set aside and the writ petition is allowed to the extent indicated above setting aside the orders passed by the Appellate Authority dated 13.08.2024 and that of the Sub-Divisional Officer dated 30.11.2023. The Sub-Divisional Officer concerned shall put the petitioner on notice and duly giving him an opportunity of leading any evidence, the matter shall be decided on merits in accordance with law. The Sub-Divisional Officer concerned shall endeavor to see that the case is disposed off as expeditiously as possible preferably within a period of ten weeks from the date of receipt of a copy of this order. In case the authorities relying on the enquiry report, the copy of the said enquiry report shall be furnished to the petitioner and he shall be given an opportunity of filing his explanation afresh.

9. It is needless to mention that before passing any order, the petitioner shall be given an opportunity of hearing. Any order passed shall be communicated to the parties.

10. With the above direction, the present writ petition stands disposed of.

(A. Abhishek Reddy, J)

Ayush/-

U			
---	--	--	--

