

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.247 of 2024

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Santosh Kumar Pal son of Sri Bhagwan Prasad Pal, resident of Baikunth Nath Road, Charitravan, PS Buxar, District Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection, Government of Bihar, Patna.
2. Principal Secretary, Food and Consumer Protection, Government of Bihar, Patna.
3. The Divisional Commissioner, Patna.
4. The District Magistrate, Ara (Buxar).
5. The Sub Divisional Officer, Buxar.
6. The Block Supply Officer, Buxar Sadar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Adv.
For the Respondent/s : Md. Nadim Seraj (Gp 5)

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

6 22-07-2024 Heard the learned counsel for the parties.

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

“(i) For quashing the Order dated 27.07.2023 passed in BTPDS control Revision no. 152/2023 passed by the respondent Commissioner, Patna whereby and where under the revision application filed by the Petitioner



has been rejected.

(ii) For quashing the order dated 10.02.2023 passed by the Respondent District Magistrate upholding the order dated 13.08.2022 of the Sub Divisional Officer Buxar by which the License of the petitioner has been cancelled.

(iii) For quashing the order contained in memo no. 567 dated 13.08.2022 issued under signature of Respondent Sub Divisional Officer, Gwalpara whereby and where under the license no 02 of 2016 of the petitioner under Public Distribution System has been cancelled in the most arbitrary manner.

(iv) For direction upon the respondent authorities to restore the license no. 02/2016 of the petitioner forthwith.”

3. Learned counsel appearing on behalf of the petitioner has stated that the impugned order dated 13.08.2022 passed by the Sub Divisional Officer, Buxar i.e. Respondent No. 5 is liable to be set aside as the same is against the principles of natural justice and equity. Learned counsel has stated that though the petitioner has submitted a detailed explanation to the show cause notice, the Sub Divisional Officer has not considered the said explanation and passed the orders in a mechanical manner. That the explanation submitted by the petitioner has not been adverted to by the Sub Divisional Officer



in his order. Learned counsel has, therefore, prayed this Court to set aside the impugned order and remand the matter back to the Sub Divisional Officer for passing orders afresh duly taking into consideration the explanation submitted by the petitioner.

4. Per contra, the learned counsel for the respondents has vehemently opposed the very maintainability of the present Writ Petition. That the authorities having found that the petitioner has violated the provisions of the control order have cancelled the license of the petitioner and the same has being affirmed by both the appellate and revisional authorities. Learned counsel has stated that the orders passed by the Sub Divisional Officer, District Magistrate and Revisional Authorities are all 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 Officer shows that the Sub Divisional Officer 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 Officer 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. 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.”

7. Having regard to the above mentioned facts and circumstances, the impugned order dated 13.08.2022 passed by the Sub Divisional Officer, Gwalpara, the order dated 10.02.2023 passed by the appellate authority i.e. Respondent No. 4 and the order dated 27.07.2023 passed by the revisional authority are set aside. The matter is remanded back to the Sub-Divisional Officer 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.

8. 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.

9. Accordingly, the present Writ Petition stands



allowed to the extent indicated

(A. Abhishek Reddy , J)

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