

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2621 of 2024

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Pashupati Singh @ Pashupati Prasad Singh Son of Late Abhiram Singh,
Resident of Village- Kathel, P.S.- Amarpur, District- Banka.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Chandra Shekhar Sharma, Adv.
For the Respondent/s	:	Mr. Standing Counsel 1
For the State	:	Md. Fazle Karim AC to SC-5

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

4 22-07-2024 Heard the learned counsel for the parties.

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

“(i) For issuance of writ in the nature of certiorari to set aside the order as contained in Memo No. 271 dated 04.08.2020 issued under signature of Sub Divisional Officer, Banka by which PDS Dealership License No. 96/12 of the petitioner has illegally been



cancelled without proper considering the show cause submitted by the petitioner.

(ii) For issuance of writ in the nature of certiorari to quash the order dated 17.06.2022 passed by the Collector, Banka passed in Supply Appeal Case No. 1167/21-22 dismissing this appeal and hold the order of SDO, Banka on it was/'is And thereby quash the order dated 12.12.2022 contained in Memo No. 1655 dated 15.12.2022 and passed in Supply Divisional Commissioner, Bhagalpur. And thereafter quash the order of respondent no. 1 contained in memo no. 5065 dated 22.11.2023 by which an application filed by the petitioner filed under Rule 32 (vii) of Bihar Targeted PDS (Control) order 2016 has been rejected.

(iii) For issuance of writ in the nature of mandamus commanding and directing the respondents to restore PDS dealership license of petitioner and allow him to lift the food grains etc to be distributed amongst the beneficiaries of his PDS shop.”

3. Learned counsel appearing on behalf of the petitioner has stated that the impugned order dated 04.08.2020 passed by the Sub Divisional Officer, Banka i.e. Respondent No. 6 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 explanation submitted by the petitioner and passed the order in a mechanical manner. That the explanation submitted by the petitioner has not at all 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 which do not require any interference by this Court. Learned counsel has therefore prayed to dismiss the present Writ Petition.

5. A perusal of the order dated 04.08.2020 passed by the Sub Divisional Officer reveals that the Officer concerned



while passing the orders has not adverted to the explanation submitted by the petitioner. 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 Courts will not be in a position to appreciate the order passed and the reasons 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. It is pertinent to note that the allegations made against the petitioner are very trivial in nature. The authority has lost sight of the fact that the period when the inspection has taken place, the country was going through the Covid-19 Pandemic situation and the entire country was under lockdown. Further, it is to be noted that there are no allegations of any misappropriation by the petitioner at the most the petitioner can be guilty of dereliction of duty which is understandable during the Covid-19 Pandemic situation. There is nothing on record which indicates that any consumer had made any complaint



against the petitioner that they were denied any ration during the said period. The authority while passing orders shall duly take into consideration the past record of the petitioner and also the observations made by this court above.

8. Having regard to the above mentioned facts and circumstances, the impugned order dated 04.08.2020 passed by the Sub Divisional Officer, Banka, the order dated 17.06.2022 passed by the appellate authority i.e. Respondent No. 4, the order dated 12.12.2022 passed by the revisional authority and the order dated 22.11.2023 passed by the Principal Secretary, Department of Food and Civil Supplies i.e. Respondent No. 1 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.

9. 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.

10. Accordingly, the present Writ Petition stands



allowed to the extent indicated

(A. Abhishek Reddy , J)

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