

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2810 of 2024

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Pawan Kumar S/o- Late Bindeshwar Prasad, Resident of Village- Nardiganj,
P.S.- Nardiganj, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate-cum-Collector, Nawada.
4. The Sub-Divisional Officer, Nawada Sadar.
5. Satyendra Kumar, Son of late Chandeshwar Sharma, R/o- Village- Nardiganj, P.S. Nardiganj, District-Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akash Chaturvedi
For the Respondent/s : Mr. Government Pleader 23

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

20 19-08-2025

Heard the learned counsel for the parties.

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

“I. For issuance of writ in the nature of certiorari for quashing of order dated 10.08.2023 passed in Supply Appeal Case No. 161 of 2022 by the Divisional Commissioner, Magadh Division, Gaya whereby a direction has been issued to the Sub-Divisional Officer, Gaya Sadar, to cancel the PDS license issued to the petitioner with immediate effect without assigning any cogent reason being wholly arbitrary illegal.

II. For issuance of writ in the nature of certiorari for quashing of the order dated 22.09.2023 issued vide Memo No. 722 dated 22.09.2023 by the Sub-Divisional Officer, Nawada Sadar whereby



the PDS License of the petitioner has been cancelled in compliance of the order passed by the Commissioner, Magadh Division, Gaya without giving any opportunity of being heard in complete violation of principles of natural justice being wholly arbitrary illegal and without jurisdiction.

III. For issuance of writ in the nature of declaration holding that the entire proceeding initiated against the petitioner being wholly illegal arbitrary and without jurisdiction and has been passed in complete violation of principles of natural justice, hence are liable to be quashed by this Hon'ble Court.

IV. For issuance of writ in the nature of mandamus directing the respondent to restore the PDS license of the petitioner and resume the supply of food grains with immediate effect.

V. For any other relief(s) for which petitioner is found entitled to in facts and circumstances of the present case."

3. Learned counsel for the petitioner has stated that the license of the petitioner has been cancelled without putting the petitioner on prior show cause notice. Learned counsel has stated that on an earlier occasion this Hon'ble Court had set aside the orders of cancellation and remanded the matter back to the Divisional Commissioner for fresh consideration. That the Divisional Commissioner has passed the order dated 10.08.2023 impugned in the present writ petition. Learned counsel has further stated that though the petitioner has relied on the partition deed which has been entered in the year 2007



(Annexure-P/4) however, the Divisional Commissioner, Magadh Division, Gaya had not taken the same into consideration. The Divisional Commissioner except stating in the order that the petitioner has filed the partition deed, there is absolutely no discussion on the partition deed. Learned counsel has stated that the impugned order passed by the Divisional Commissioner is liable to be set aside on the ground that the same is bereft of any reasons. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition.

4. *Per contra*, the learned counsel appearing on behalf of the respondent-State as well as respondent No. 5 have vehemently opposed the very maintainability of the present writ petition. Learned counsel have stated that the order passed by the Divisional Commissioner is a well reasoned order, which does not require any interference by this Hon'ble Court. Learned counsel further states that the Divisional Commissioner duly taking into consideration the fact that the brother of the petitioner has already been appointed as PDS dealer on compassionate grounds after the death of his father, has rightly rejected the claim of the petitioner. Further, learned counsel have stated that the petitioner has failed to bring on record any document to establish that the brothers are actually are separated



and staying apart after the partition. Learned counsels have therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. Admittedly as seen from the record the Divisional Commissioner while passing the impugned order on 10.08.2023 has noted that the petitioner has filed partition deed which was entered between the family members in the year 2007. However, there is absolutely no reason given or any discussion on the said document. Absolutely nothing has been discussed by the authority and no reasons are given as to why the authority has disbelieved the partition deed relied by the petitioner. There are no reasons given in the order and the same is bereft of any reasoning.

6. The Hon'ble Supreme Court in the case of ***Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota vs. Shukla and Brothers***, reported in ***(2010) 4 SCC, 785*** 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 the impugned order dated 10.08.2023 passed by the Divisional Commissioner is set aside and the matter is remanded back to the Divisional Commissioner for passing orders afresh. The authority shall duly take into consideration the material filed by the petitioner as well as the respondent No. 5 herein and pass a reasoned orders.

8. It is needless to mention that before passing any orders, the petitioner as well as respondent No. 5 shall be put on notice and given an opportunity of hearing. The authority shall



pass a reasoned order giving reasons for either rejecting the case of the petitioner or allowing the same. The entire exercise shall be completed as expeditiously as possible preferably within a period of six weeks from the date of receipt of a copy of this order. Any orders passed shall be communicated to the parties.

9. It is made clear that in case the **appeal/revision** filed by the petitioner is allowed, the order of Sub-Divisional Officer dated 22.09.2023 is also liable be set aside.

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

(A. Abhishek Reddy, J)

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