

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4460 of 2025

=====

PACS Ghaghat through its Chairman, namely, Umesh Prasad (Male, Aged about 41 Yrs.)-cum-PDS dealer, Ghaghat PACS, Panchayat- Ghaghat, Block/P.S.- Sirdala, District- Nawada, Son of Bindeswari Prasad, Resident of Village- Manjhauli, P.S.- Sirdala, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Dept., Govt. of Bihar, Patna- 800015.
2. The Divisional Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Nawada.
4. The Sub Divisional Officer, Rajauli, District- Nawada.
5. Anchal Adhikari, Sirdala, District- Nawada.
6. The Block Supply Officer, Sirdala, District- Nawada.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Kumar Lalit, Adv.
For the Respondent/s : Mr.Standing Counsel (7)

=====

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

8 07-10-2025 Heard learned counsel for the parties.

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

*“i. For quashing of Memo No. 1184 dated 16.06.2021, contained in ANN-P/3, issued by the Sub Divisional Officer, Rajauli (For Short: the SDO) cancelling petitioner’s License No. 07/2021, which was issued for running a PDS Shop/Fair Price Shop.
ii. For a consequential direction commending the respondents to restore the supply and distribution of petitioner’s PDS/Fair Price Shop forthwith which has been snatched illegally, unconstitutionally & in*



complete violation of Natural Justice.”

3. Learned counsel appearing on behalf of the petitioner has assailed the impugned order dated 16.06.2021 passed by the Sub-Divisional Officer, Rajauli on the ground that the show cause notice was issued to the petitioner granting 24 hours to submit his explanation. Learned counsel further submits that though the petitioner has submitted his explanation to the said show cause notice on 03.06.2021, the authority while passing the impugned order of cancellation has not adverted to the explanation submitted by the petitioner and passed the impugned order in a cryptic and mechanical manner. Learned counsel further submits that the order passed by the Sub-Divisional Officer is contrary to the settled principles of law and opposed to the principles of natural justice and equity. Learned counsel has stated that this Court time and again has reiterated that the authority while issuing the show cause notice to any person should grant ample opportunity to him for filing his explanation. However, in this case the respondent-authority has failed to do so. Learned counsel has relied on the Judgment of this Hon'ble Court in the case of *Ram Bachan Ram Vs. The State of Bihar*



and Ors. reported in 2018(4) PLJR 516. Learned counsel has therefore prayed this Hon'ble Court to allow the present writ petition and set aside the impugned order.

4. Per contra, the learned counsel for the respondents has vehemently opposed the maintainability of the writ petition and stated that the petitioner has alternative and effective remedy of filing a statutory appeal before the District Magistrate under Clause 32(3) of the Bihar Targeted Public Distribution System (Control) Order, 2016. Learned counsel has stated that the petitioner has been granted ample opportunity to file his explanation and duly taking the explanation submitted by the petitioner into consideration, the authority has passed the impugned order. That the order passed by the Sub-Divisional Officer does not suffer from any infirmity and does not require any interference by this Hon'ble Court. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the show cause notice issued to the petitioner reveals that the petitioner has been given only 24 hours for filing his explanation. Further the impugned order dated 16.06.2021 passed by the Sub-Divisional Officer does not advert to the explanation submitted by the petitioner. Though



the petitioner has submitted his explanation to the said show cause notice on 03.06.2021, the authority has not adverted to the same.

6. This Court as well as the Hon'ble Apex Court, on number of occasions, have held that any authority/Court/quasi judicial authority have to necessarily give reasons in the order passed by them. Unless reasons is given in the order, neither the party nor Courts before whom the order is challenged will be in a position to appreciate as to what has weighed with the said authority either for dismissing or allowing the said application. Though the quasi judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial order, yet they are expected to give a reasoned order which should be precise, concisely setting out the reasons for allowing or dismissing the contention/application as the case may be.

7. 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."

8. Further the Division Bench of this Hon'ble Court in the case of *Ram Bachan Ram Vs. The State of Bihar and Ors.* reported in 2018(4) PLJR 516 has held as under:-

"6. Even though, the respondents have filed a counter affidavit and have tried to justify the action, we find that under sub-clause (ii) of Order 27 of the Control Order, 2016, it is clearly stipulated that no order of



cancellation of a licence shall be made until the licensee has been given sufficient opportunity to state his case against the proposal of cancellation. The words, 'proposal for cancellation' appearing in the statutory provision clearly contemplates that when the show cause notice is issued, licensee should be categorically informed that there is 'proposal for cancellation of licence' and show cause notice issued as to why licence should not be cancelled. In the show cause notice issued to the petitioner, apart from the fact that there is no such proposal indicated asking him to show cause as to why licence should not be cancelled, we find that on the second ground also, the impugned action is not sustainable inasmuch as the petitioner gave a detailed explanation and justification against the proposed action, as is contained in Annexure-6, and in a cryptic manner, without considering the explanation and defence of the petitioner, his licence has been cancelled. This amounts to violation of principles of natural justice inasmuch as the non-application of mind and passing an order adverse to or prejudice to a person without considering his defence is also a facet and the requirement of principles



of natural justice and this having not been followed, we are of the considered view that principle laid down in the case of Whirlpool Corporation (supra) squarely applies in this case. The order impugned suffers from material legal infirmity and on this count itself without relegating to the petitioner to take recourse to the statutory remedy available, the question could have been considered by the learned Writ Court as is apparent from the face of record that there is statutory violation or violation of the principles of natural justice.”

9. Having regard to the same, the impugned order dated 16.06.2021 passed by the Sub-Divisional Officer, Rajauli is set aside and the matter remanded back to the authority concerned for passing orders afresh. The authority before passing any order shall put the petitioner on notice and give him an opportunity for filing his explanation to the said show cause notice already issued by giving him reasonable time. After receipt of the explanation, the authority shall pass a reasoned order giving the reasons either for accepting the explanation submitted



by the petitioner or rejecting the same. The entire exercise shall be completed as expeditiously as possibly preferably within a period of 12 weeks from the date of receipt of the copy of this order.

10. 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 petitioner.

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

(A. Abhishek Reddy , J)

Bhardwaj/-

U			
---	--	--	--

