

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8484 of 2019

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Shyam Sunder Ray Son of Late Ram Babao Roy, resident of Village and Post
Office- Madhopur, Police Station- Patori, District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The Divisional Commissioner, Darbhanga Division, Darbhanga.
4. The District Magistrate, Samastipur.
5. The Sub Divisional Officer, Patori, Samastipur.
6. Additional District Supply Officer, Patori.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, Sr Advocate
For the Respondent/s : Mr. Arvind Ujjwal (SC 4)

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 25-02-2025

1. The petitioner has filed the Writ application for the following reliefs:

“That the Petitioner in the instant Writ application prays for quashing of the Order dated 09.10.2018 passed in Revision case No. 05/2015 passed by the Divisional Commissioner Darbhanga, by which the Divisional Commissioner, Darbhanga had affirmed the order of the Collector without considering the facts and circumstances and



the Petitioner further prays for quashing the order dated 22.01.2015 passed in Appeal Case No. 35/2013 by the Collector, Samastipur and order under Memo No. 2056 dated 24.09.2011 passed by the Respondent No. 5, Sub Divisional Officer, Patori whereby and where under the license of the Petitioner had been cancelled without supplying the Enquiry Report to the Petitioner and without considering the submission made by the Petitioner in his reply and license of the Petitioner had been cancelled on the vague allegations and without considering the show cause reply of the Petitioner which is violation of principles of natural justice and the Petitioner further prays for restoration of the Public Distribution System License of the Petitioner.”

2. The brief facts culled out of the petition are that the petitioner’s PDS license (No. 01/06) was cancelled by the Sub-Divisional Officer,



Patori, without supplying the enquiry report or considering the show-cause reply filed by the petitioner. The cancellation was based on vague allegations that are not sustainable in the eyes of the law. Both the Appellate Authority and the Revisional Authority upheld the cancellation order passed by the Sub-Divisional Officer, Patori, without considering the pleas or submissions raised by the petitioner.

3. It is submitted by the Learned Senior Counsel for the petitioner that following an enquiry conducted by the Deputy Collector Land Reforms, Patori, and the Assistant District Supply Officer, Patori, on 28.07.2011, the petitioner was served with a Show-Cause Notice bearing Memo No. 1694 dated 30.07.2011. The notice set out six charges constituting irregularities under the order and required a response from the petitioner, a copy of which is placed at Annexure-1.

4. The Learned Senior Counsel Mr. Anand Kumar Ojha appearing for the petitioner submitted that the petitioner had moved this Court



by filing CWJC No. 21400 of 2011 against the cancellation order. On the prayer of the petitioner, the said writ petition was disposed of by an order dated 06.06.2013 (Annexure-6), granting liberty to the petitioner to approach the Appellate Authority.

5. Thereafter, the petitioner preferred Appeal Case No. 35 of 2013 before the Appellate Authority-cum-Collector, Samastipur, challenging the cancellation order dated 24.09.2011. The petitioner submits that the Appellate Authority, without considering the facts, circumstances of the case, and the submissions made by the petitioner, rejected the appeal by an order dated 22.01.2015 (Annexure-7). It is further submitted that against the order dated 22.01.2015, the petitioner filed a revision bearing Revision Case No. 05 of 2015 before the Divisional Commissioner, Darbhanga. However, the Revisional Authority rejected the revision by an order dated 09.10.2018.

6. Heard the Learned Senior counsel for the petitioner as well as the Learned counsel for the State.



7. At this juncture, the learned Senior Counsel for the petitioner draws the attention of this Court to the order passed in **CWJC No. 253 of 2014 (Raghuvir Prasad Vs. The State of Bihar & Ors.)** (Annexure-9). The learned Senior Counsel contends that this matter is squarely covered by the judgment passed by this Court in Raghuvir Prasad (supra). Therefore, it is prayed that this writ petition may be disposed of on the same terms and conditions.

8. The Learned Counsel for the respondents, agreeing with the judgment passed by this Court in Raghuvir Prasad (supra) and submits that this matter may be disposed of on the same terms and conditions as outlined in the aforesaid judgment.

9. I have perused the order passed in Raghuvir Prasad (supra). For better appreciation of the facts, relevant portion thereof is quoted hereinbelow:

“In my opinion the non-supply of the enquiry report conducted by the District Level



Committee which is the foundation for issuance of show cause notice placed at Annexure-1 as well as non-supply of names of such of the consumers who had complained against the petitioner as regarding the irregularities in distribution of the food-grains or the kerosene oil has prejudiced the petitioner to file his purposeful reply and in absence thereof, the order impugned in my opinion, are based on no materials.

Though it was strenuously argued by Mr. Pandey that in absence of any response by the petitioner the allegations would be deemed to have been admitted but in my opinion even if the show cause reply was missing, the orders passed by the statutory authorities having civil consequences and resulting in cancellation should reflect application of mind. Unfortunately it is grossly missing inasmuch as neither the order of the Licensing Authority nor the order of the appellate authority deal with the materials which formed the basis to drive home the charges. The orders impugned are indefensible and



cannot be upheld.”

In result, the Writ petition is allowed and the order passed by the Licensing Authority as contained in Annexure-3 along with the order of the appellate authority placed at Annexure-4 are set aside. The licence of the petitioner stands restored.

This order would, however, not preclude the respondents to proceed in the matter in accordance with law bearing in mind the observations made hereinabove.”

10. In view of the fact that this matter is squarely covered by the aforesaid judgment, the Writ application is allowed, in light of the judgment passed in **Raghuvir Prasad (supra)**, and the impugned orders dated 24.09.2011 (Annexure-4), 22.01.2015 (Annexure-7) and 09.10.2018 (Annexure-8) are, hereby, quashed.

11. This order, however, shall not preclude the respondents to proceed in the matter in accordance with the law, bearing in mind the observations made hereinabove.



12. Interlocutory Application(s), if any,
shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.03.2025
Transmission Date	

