

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9002 of 2022

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Dhruv Das Son of Birendra Das @ Birendra Mangal, Resident of Village and Post Office - Maliniyan, Police Station- Sarsi, District - Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate-cum-Collector, District-Purnea.
2. Licensing Authority-cum-Sub Divisional Officer, Banmankhi, District-Purnea.
3. District Supply Officer, Purnea.
4. Block Supply Officer, Banmankhi, District - Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gyanand Roy
For the Respondent/s : Mr. Arvind Ujjwal (Sc4)

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

3 09-01-2025 Learned counsel for the petitioner has stated that the PDS license of the petitioner has been cancelled *vide* order dated 27.02.2017 passed by the concerned SDO. Aggrieved by the order passed by the concerned SDO, the petitioner had preferred an appeal i.e., Supply Appeal Case No. 61/2017 before the District Magistrate. However, the counsel for the petitioner could not appear before the District Magistrate in the said appeal when the matter was listed and, therefore, the appellate authority had dismissed the said appeal for non-prosecution.

2. Learned counsel for the petitioner has stated that the petitioner cannot be blamed for the lapses, if any, committed by the counsel and the petitioner ought to have been put on



notice before dismissing the appeal for non-appearance of the counsel on record. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the appellate authority for considering the matter afresh and passing orders on merit after duly giving an opportunity of hearing to the petitioner.

3. *Per contra*, the learned counsel for the respondent-State has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner has an alternative and efficacious remedy of filing a revision against the order of appellate authority. Learned counsel has further stated that the counsel for the petitioner had not appeared for a period of over four years and the appellate authority left with no other option had dismissed the said appeal for non-prosecution. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

4. Admittedly, in this particular case, it is not the case where the petitioner has not been prosecuting the case only the counsel on record for reasons best known to him could not appear before the authority concerned. As rightly pointed out by the counsel for the petitioner, the petitioner cannot be blamed for the lapses, if any, committed by the counsel on record.



5. Having regard to the fact that the appellate authority has dismissed the case solely on the ground that counsel has not appeared on the dates, this Court deems it fit and proper to set aside the impugned order dated 12.01.2021 and remand the matter back to the authority concerned for passing orders afresh duly taking into consideration the grounds of appeal filed by the petitioner and also giving him an opportunity of hearing. The petitioner shall either in person or through his counsel shall appear before the authority on 10.02.2025, no separate notice will be issued to the petitioner and the counsel for the petitioner herein shall intimate his client about the date fixed by this Court for appearing before the appellate authority. The appellate authority shall also endeavor to dispose of the appeal as expeditiously as possible preferably within a period of eight weeks from 10.02.2025.

6. With the above direction, the present writ petition stands disposed of.

(A. Abhishek Reddy, J)

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