

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11007 of 2024

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Surya Prasad Keshri Son of Late Jagannath Prasad Village- Majhaua Circle,
Post- Bibibankatwa, Police Station- Chautarwa, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Food and Consumer Protection, Government of Bihar, Patna.
3. The Divisional Commissioner, Muzaffarpur.
4. The District Magistrate, West Champaran, Bettiah.
5. The Sub Divisional Officer, Bagaha West Champaran, Bettiah.
6. The Block Supply Officer, Bagaha West Champaran, Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Adv. Mr. Sanjeev Kr. Mishra, Adv. Mr. Manini Jaiswal, Adv.
For the Respondent/s	:	Mr. Standing Counsel 6
For the State	:	Mr. Syed Hussain Majeed, AC to SC-6

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

8 29-01-2025 Heard the learned counsel for the parties.

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

*“(i) For quashing the order dated
21.5.2024 passed in PDS revision no. 22/24
under the signature of the Respondent
Divisional Commissioner Muzaffarpur vide
which the revision application has been
dismissed.*

*(ii) for quashing the order dated
15.04.2023 passed in CRM no. 1372/21-22
under the signature of the Respondent*



Additional District Magistrate vide which the appeal pursuant to the order dated 08.02.2022 passed in CWJC 17211/2018 has been dismissed.

(iii) for quashing the order dated 23.6.2018 issued vide memo No. 320/A, Bagaha by which the PDS License no. 90/2007 of the Petitioner has been cancelled by Licensing Authority-cum-Sub Divisional Officer, Bagaha without adhering to the rely to the showcause and without even following the principles of natural justice.

(iv) for restoration of the PDS license No. 90/2007 of the Petitioner which has been cancelled due to non-consideration of reply to the showcause submitted by the Petitioner.”

3. Learned counsel for the petitioner has stated that the Sub Divisional Officer without furnishing the copy of the enquiry report nor the statements made by the beneficiaries who have alleged to have made the complaint has passed the order of cancellation. Further, it is stated that the authority did not take into consideration the explanation filed by the petitioner in a proper perspective and passed the order in a mechanical manner. Though the petitioner has preferred an appeal and revision, both the appellate, as well as revisional authority have not considered the above aspect and passed the impugned orders. Learned



counsel has stated that the petitioner has taken a specific stand in the writ petition stating that the copy of the enquiry report nor the statements made by the beneficiaries were furnished to the petitioner and the same has not been denied by the respondents in their counter affidavit. Learned counsel has, therefore, prayed this Hon'ble Court to set aside the impugned orders and remand the matter back to the authority concerned for furnishing the copy of the enquiry report and as well as the statements made by the beneficiaries who have alleged to have made the complaint and permit the petitioner to file his explanation afresh and thereafter pass a reasoned order.

4. Learned counsel appearing on behalf of the respondents State has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the petitioner having lost in all the forums i.e. the revisional authority, appellate authority as well as the primary authority cannot maintain the present writ petition. Learned counsel has stated that this Court sitting under Article 226 of the Constitution of India cannot re- appreciate the evidence and pass a different order and, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the show cause notice issued to the



petitioner does not reveal that the copy of the enquiry report nor the statements made by the beneficiaries who have alleged to have made a complaint against the petitioner was furnished to the petitioner. Further, in the writ petition filed by the petitioner, at para 6 the petitioner has taken the specific stand which is reproduced below:

“That the copy of the statement of beneficiaries as stated in the notice dated 5.6.2018 and the copy of the enquiry report has not been provided to the petitioner before passing the impugned order of cancellation of the order by the licensing authority.”

However, the same has not been denied by the authority in the counter affidavit. The counter affidavit is silent with regard to the above.

6. Having regard to the same, the impugned orders are set aside, the matter is remanded back to the Sub Divisional Officer concerned for issuing a copy of the enquiry report, the statements made by the beneficiaries who have alleged to have made a complaint against the petitioner and permit the petitioner by giving sufficient opportunity to the petitioner to file his explanation and thereafter pass a reasoned order. The entire exercise shall be completed by the authority concerned within a



period of twelve weeks from the date of receipt of the copy of this order. It is needless to mention that the petitioner shall be given an opportunity of hearing before any order is passed. Any order passed shall be communicated to the party. In case the petitioner so desires, he is entitled cross-examine the beneficiaries to test the veracity of the statements made by them.

7. With the above directions, the present writ petitions stands disposed of.

(A. Abhishek Reddy , J)

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