

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10658 of 2024

=====

Arun Kumar Sharma Son of Rambriksh Ray Resident of Village, Malikaur, Post and P.S. Malikaur, District- Samastipur, Bihar-848115 presently residing at Panchayat- Dihuli, Ishhak, Block- Sakra, P.S. Sakra, District- Muzaffarpur, Bihar- 845404.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur cum Appellate Authority.
3. The Commissioner, Tirhut Division, Muzaffarpur cum Revisional Authority.
4. The Sub-Divisional Officer cum Licensing Officer, Muzaffarpur East, Muzaffarpur.
5. The Block Supply Officer, Gaighat, Muzaffarpur East, Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Anand Kumar Ojha
For the Respondent/s : Mr.Government Pleader 4

=====

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

14 10-09-2025 Heard the learned counsel for the parties.

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

“That the Petitioner in the instant writ application prays for quashing of Order contained in Memo No. 1525 dated 16.06.2021 mechanically passed by the Licensing Authority cum Sub-Divisional Officer, Muzaffarpur East, Muzaffarpur, Order dated 10.12.2021 passed in Supply Appeal Case No. 52/2021-22 and the Revisional Order dated 09.05.2024 passed in PDS Revision Case No. 142/2022 on the ground that the order of the Licensing Authority was non speaking without considering the Reply and the non-supply of the Enquiry Report, despite demand by letter



dated 09.07.2021 by the Petitioner before the Licensing Authority, vitiated the entire proceeding. The Appellate Authority failed to see the fundamental procedural breach committed at the original stage and neither remanded nor addressed upon such breach to the extent of denial of enquiry report. The Revisional Authority also passed a legal order by validating the original order as well as the Appellate order only on the grounds that the orders are detailed.”

3. Learned counsel for the petitioner submits that the petitioner has been appointed as a PDS dealer since 2016 and has been discharging his duties without any complaint from any of the beneficiaries. That on 30.05.2021 the shop of the petitioner was inspected by the Block Supply Officer and the petitioner was issued show cause notice *vide* Memo No. 373 dated 03.06.2021 without annexing the copy of the enquiry report. Learned counsel submits that though the petitioner has given a detailed explanation to the said show cause notice, the authorities without considering the explanation submitted by the petitioner in a proper perspective has cancelled the PDS license of the petitioner. Learned counsel submits that as against the order of the cancellation dated 16.06.2021, the petitioner has preferred a statutory appeal before the District Magistrate but the same was also dismissed on 10.12.2021. Thereafter, the petitioner has approached the Divisional Commissioner under



Rule 37(vi) of (Control) Order, 2016 by way of a statutory revision but the same was also dismissed on 09.05.2024. Learned counsel submits that the main allegation against the petitioner is that the petitioner is having a stock which was not tallying with the stock reflected in the E-POS Machine on the basis of the same, the authorities have come to the conclusion that the petitioner is indulging in black-marketing. Learned counsel submits that the petitioner has given due representations dated 18.02.2021 & 16.04.2021 to the authorities concerned which happens to be even before the dated of inspection i.e., 30.05.2021 but the authorities without correcting the discrepancies in the E-POS Machine have inspected the shop on 30.05.2021 and passed the impugned order of cancellation of PDS License. Learned counsel further submits that the petitioner cannot be blamed for the lapses, if any, committed by the authorities in not rectifying the E-POS Machine after the the petitioner has made his representations. Learned counsel therefore, prays this Hon'ble Court to set aside the impugned orders and direct the authorities to restore the license in favour of the petitioner.

4. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very



maintainability of the present writ petition and also the prayer sought for. Learned counsel submits that the authorities duly taking into consideration that there are number of complaints against the petitioner has passed the impugned orders and the same has been upheld by both the appellate as well as the revisional authorities. That the conclusion arrived by the authorities was based on the available records and the authorities duly taking into consideration the evidence on record have passed the orders which are well reasoned and do not require any interference by this Hon'ble Court. Learned counsel therefore, prays this Hon'ble Court to dismiss the present writ petition with costs.

5. A perusal of the impugned order dated 16.06.2021 passed by the SDO, the order passed in appeal by the District Magistrate and the order passed in the revision by the Divisional Commissioner reveal that the petitioner was issued a show cause notice alleging as under;

“विषय :- स्पष्टीकरण प्रस्तुत करने के संबंध में।

उपर्युक्त विषयक प्रखण्ड आपूर्ति पदाधिकारी, सकरा के पत्रांक-63, दिनांक 30.05.2021 द्वारा प्राप्त प्रतिवेदनानुसार प्राप्त शिकायत के आलोक में उनके द्वारा आपके दुकान की जाँच की गयी। जाँच के कम में आपके विरुद्ध निम्नांकित अनियमितताएँ दृष्टिगोचर हुई है:-

1. प्रखण्ड आपूर्ति पदाधिकारी द्वारा आपके दुकान पर निरीक्षण के कम ममें जाने पर आपका दुकान बंद पाया जाता है तथा मोबाईल भी महेशा बंद पाया जाता है।

2 माह मई 2021 में एनएफ.एस.ए. योजना का खाद्यान्न दिनांक 12.05.2021 को प्रदान किये जाने के बावजूद भी



आपके द्वारा अभी तक माह मई 2021 के खाद्यान्न का वितरण अधिकांश लाभुकों को नहीं किया गया है।

3. आपके द्वारा माह में सिर्फ 04-05 दिन ही दुकान खोजा जाता है।

4. आपके द्वारा खाद्यान्न का मूल्य प्रति यूनिट 10 रूपया लिया जाता है जो निर्धारित दर से अधिक काफी है।

5. आपके द्वारा सार्वजनिक वितरण प्रणाली (नियंत्रण) आदेश 2010 के नियम) का घोर उल्लंघन किया गया है।

अतः उपर्युक्त बरती गयी अनियमितताएँ के संबंध में आप अपना स्पष्टीकरण एवं अपने दुकान से संबंधित माह मार्च, अप्रैल एवं मई 2021 के खाद्यान्न एवं किरासन तेल के भंडार पंजी तथा वितरण पंजी/कैशमेमो / ई-पॉस ट्रांजेक्सन की प्रति के साथ पत्र प्राप्त के तीन दिनों के अंदर अद्योहस्ताक्षरी के समक्ष प्रस्तुत करें कि क्या नहीं आपके दुकान की अनुज्ञप्ति रद्द कर दी जाये।”

6. The main allegation against the petitioner is that there are discrepancies in the stock available in the shop and the quantity reflected in the E-POS Machine. The authorities have come to the conclusion that the petitioner is indulging in black-marketing of the food grains. However, it is to be noted that the petitioner has given representations on 18.02.2021 & 16.04.2021 for rectification of the E-POS Machine. But the authorities for reasons best known to them have not passed any order on the said representations. The contents of the representations reveal that the petitioner has made a complaint to the authorities for rectifying the discrepancies in the E-POS Machine which was showing more quantity of grains than what was actually given to the petitioner. It is further to be noted that these representations dated 18.02.2021 & 16.04.2021 are given



well before the date of inspection i.e., 30.05.2021 almost three months before the date of inspection. Therefore, the conclusion arrived at by the authorities that the petitioner is indulging in black-marketing of the food grains solely on the ground that there are discrepancies in the physical stock and the quantity reflected in the E-POS Machine is totally misconceived. The authorities ought to have taken due steps for rectification of the E-POS Machine as soon as they have received the representations made by the petitioner but for reasons best known to them, they have sit over the same. The petitioner cannot be blamed for the discrepancies in the stock which is actually lying in the shop/ godown and the one reflected in the E-POS Machine. Both the appellate as well as the revisional authorities have lost sight of this fact and have simply passed the order in a mechanical manner conforming the order of cancellation passed by the SDO.

7. Further, it is to be noted that the copy of the enquiry report has not been furnished to the petitioner. This Court in CWJC No.253 of 2014 dated 11.03.2015 has held that non supply of the copy of the enquiry report along with the Show Cause Notice is against the principles of natural justice and equity. Further, it is to be noted that the names of the



beneficiaries who have made the complaint against the petitioner are not reflected in the Show Cause Notice nor their statements furnished to the petitioner. This Court is of the opinion that the ends of justice would be served, if the impugned order passed by the revisional authority dated 09.05.2024, the order of the appellate authority dated 10.12.2021 and the order of the SDO dated 16.06.2021 are all set aside and they are accordingly, set aside. The authorities are directed to restore the license of the petitioner forthwith and take necessary steps for correction of the E-POS Machine as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. The petitioner shall be allowed to run the PDS dealership without any impediment and the authorities shall take necessary steps for supply of the food grains.

8. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

U			
---	--	--	--

