

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14329 of 2023

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Nand Ji Singh @ Nand Jee Singh Son of Late Banka Singh @ Banka Yadav,
Resident of Village- Nachap, Police Station- Murar, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The District Magistrate, Dumraon, P.S.- Dumraon, Dist- Buxar.
3. The Sub Divisional Magistrate, Dumraon, P.S.- Dumraon, Dist- Buxar.
4. The Block Development Officer, Chaugai, P.S.- Murar, Dist- Buxar.
5. The Block Supply Officer, Chaugai, P.S.- Murar, Dist- Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhanesh Shankar Vidyarthi
For the Respondent/s : Mr.Arvind Ujjwal (Sc4)

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

Date : 13-02-2025

Heard the learned counsel for the parties.

The present writ petition has been filed for the following
reliefs:-

*“That the present writ application has
been filed passed by Divisional Commissioner, Patna
in BTPDS Control Revision No. 367/2022 together
with order dated 16.09.2022 in Appeal No. 07/2014
passed by D.M. Buxar (Annexure-6) and also setting
aside the order dated 23.12.2019 vide letter no. 1270
passed by S.D.O. Dumraon (Supply) through which the
P.D.S. Shop license of the petitioner has been
cancelled.”*

2. It is the case of the petitioner that pursuant to the
inspection which had taken place on 24.10.2013, the petitioner was
issued show cause notice by the concerned Sub-Divisional Officer



on 28.10.2013 and the petitioner has given a suitable reply duly adverting to the allegations made against the petitioner.

3. Learned counsel for the petitioner has stated that the petitioner had lifted the monthly stock of grain on 23.10.2013 and while on his way to the PDS Shop, the axel of the tractor in the grains were transported had broken down. That the grains lifted by the petitioner could not be shifted to the PDS Shop in time. Learned counsel has stated that the authority conducted the inspection on the very next day i.e., 24.10.2013 and having found that the grains were not found were under the impression that the petitioner had diverted the stock of grains for black-marketing. Learned counsel has stated that though the petitioner had given suitable explanation giving the reasons for the delay in showing the stock at the PDS Shop, the authority has not considered the same and in a pedantic and mechanical manner cancelled the PDS license of the petitioner. Further, learned counsel has stated that the authority has not enclosed the enquiry report relied by them, along with the show cause notice. Learned counsel has further stated that though the petitioner has preferred an appeal and statutory revision against the orders of cancellation, the appellate as well as the revisional authority without considering the grounds raised by the petitioner have dismissed the appeal and revision



respectively in a mechanical manner confirming the order of cancellation passed by the SDO concerned. Learned counsel has stated that non-consideration of the explanation given by the petitioner to the SDO is contrary to the well established principles of law and the judgments of this Hon'ble Court as well as the Hon'ble Supreme Court. Learned counsel has stated that unless and until the reasons are given by the authority concerned, either accepting or rejecting the explanation given neither the petitioner nor the higher authorities will be in a position to appreciate the case of the petitioner nor the reasons for passing of the order. Further, learned counsel has stated that non-supply of the enquiry report along with the show cause notice is also fatal to the proceedings and relied on the judgments of this Hon'ble Court passed in CWJC No.253 of 2014 dated 11.03.2015 to buttress his case. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition by setting aside the orders passed by the revisional authority, appellate authority as well as primary authority.

4. *Per contra*, the learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner failed to show the stock which was admittedly lifted by him on 23.10.2013. Learned



counsel has stated that during the inspection, the authority had found that there is a shortage of 59.40 quintals of rice and 39.60 quintals of wheat which clearly establishes that the petitioner had diverted the grains meant for public distribution. Learned counsel has stated that all the authorities have consistently found that the petitioner was guilty of violation of the provisions of the Control Order and passed the impugned orders. That the orders passed do not require any re-appreciation 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 impugned orders passed by the revisional authority, appellate authority as well as the SDO reveals that the SDO while passing the order has not at all adverted to the explanation submitted by the petitioner. The authority has merely passed the impugned order in a mechanical manner without giving any reasons whatsoever for cancelling the license issued in favour of the petitioner. Irrespective of the fact whether the tractor had broken down as claimed by the petitioner or whether the petitioner had indulged in black-marketing of the grains that were lifted by him, the fact remains that the authority while passing the order of cancellation did not give any reason for not accepting the explanation filed by the petitioner.



6. This Hon'ble Court as well as the Apex Court, on number of occasions, have held that any authority/Court/quasi judicial authority have to necessarily give reasoning in the order passed by them. Unless reasons are given in the order, neither the party nor the superior forum or 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 application of the petitioner. 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, it is to be noted that this Hon'ble Court in CWJC No.253 of 2014 dated 11.03.2015 held that non-supply of the enquiry report along with the show cause notice to the petitioner would defeat the rights of the petitioner as the petitioner would not be in a position to give an effective explanation to the authority. In the absence of the enquiry report therefore, on this ground also the impugned order is liable to be set aside.

9. Having regard to the above and duly taking into consideration the totality of the circumstances and facts of this particular case, this Court deems it fit to set aside the impugned



orders passed by the revisional authority, appellate authority as well as the primary authority dated 25.04.2023, 16.09.2022 & 23.12.2019 respectively and accordingly, they are all set aside. The matter is remanded back to the SDO concerned for issuing afresh show cause notice to the petitioner duly enclosing the copy of the enquiry report and any other documents that they want to rely on and giving him reasonable time to file his explanation. After receipt of the explanation from the petitioner, the authorities shall pass a reasoned order duly taking into account the explanation submitted by the petitioner. It is needless to mention that before passing any orders, the petitioner shall be given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the petitioner.

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

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.02.2025.
Transmission Date	NA

