

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15235 of 2023

Arjun Sao Son of Jagdish Sao, Resident of Village- Laund, P.O.- Laund, P.S. Sirdala, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Commerce, Food and Civil Supplies, Government of Bihar, Patna.
2. The Divisional Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Nawada, District- Nawada.
4. The Sub-Divisional Officer, Rajauli, District- Nawada.
5. The Block Supply Officer, Sirdala, District- Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Md. Reyaj, Advocate Mr. Adbul Mannan Khan, Advocate Mr. Hafiz Shahbaz Arif, Advocate
For the Respondent/s	:	Mr. S. Raja Ahmad (AAG-5)

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

4 01-05-2025 The present writ petition has been filed for the following reliefs:-

(a) To quash the order dated 23.06.2022, passed in Supply Revision Restoration Case No. 246/2012, passed by the Divisional Commissioner, Magadh Division, Gaya, whereby and where under restoration petition filed by the petitioner to restore the Supply Revision Restoration Case No. 246/2012, has been rejected.

(b) To quash the order dated 26.09.2013, passed in Supply Revision Restoration Case No. 246/2012, passed by the Divisional Commissioner, Magadh Division, Gaya, whereby and where under the revision application has been dismissed for non-prosecution.

(c) To issue an appropriate writ in the nature of CERTIORARI for quashing the order dated



17.10.2006 passed by the respondent no.3 in Case No. 63 (M) of 2005, whereby and where under the respondent no.3 was pleased to reject the appeal filed by the petitioner against the order of suspension as well as cancellation of P.D.S. License.

(d) To issue an appropriate writ in the nature of MANDAMUS, commanding and directing the respondent no.4 to produce on record the order dated 20.05.2005 passed by the respondent no.4, whereby and where under the respondent no.4 was pleased to reject the P.D.S. License of the petitioner and on production the same be quashed by issuance of an appropriate writ in the nature of CERTIORARI.

(e) To issue an appropriate writ in the nature of MSNDAMUS, commanding and directing the respondent authorities to restore the P.D.S. License of the petitioner on the ground that petitioner had not committed any irregularities and illegalities in discharge of his duty as a P.D.S. dealer simply at the time of inspection the P.D.S. shop of the petitioner was found closed.

(f) To issue any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be entitled under the facts and circumstances of the case.

2. It is the case of the petitioner that aggrieved by the orders of the cancellation of PDS license passed by the Divisional Commissioner, the petitioner has preferred an appeal before the District Magistrate that the appeal was also dismissed by the District Magistrate. Thereafter, the petitioner approached the Divisional Commissioner by way of revision but however,



due to old age of the petitioner and also miscommunication between the petitioner and his Advocate, there was no representation made on his behalf before the Revisional Authority and the revision was dismissed for default by the Revisional Authority.

3. That the petitioner, aggrieved by the dismissal of the revision, had preferred a CWJC before this Hon'ble Court, but due to lapses on the part of the Counsel, the same was not numbered. The petitioner, after waiting for almost seven years, has filed an application seeking restoration of the revision, which was dismissed for default. However, the Revisional Authority, by way of the impugned order dated 17.10.2006, has dismissed the application made by the petitioner for restoration of the revision.

4. Learned counsel for the petitioner states that the authority ought to have passed the order in Revision on merits instead of dismissing the same for default. That the petitioner is an old aged person and PDS shop is the only livelihood for him. Learned counsel for the petitioner has prayed for allowing the present writ petition and direct the authority to restore the revision and hear the matter on merits and pass a reasoned order.



5. Learned counsel appearing for the respondent-State has vehemently opposed the very maintainability of the present writ petition. Learned counsel for the State has stated that the petitioner was not diligent enough to prosecute the revision filed by him and the same was dismissed for default. Even after dismissal of the revision, the petitioner did not take immediate steps to file any application seeking restoration of the revision but he has waited almost more than seven years to file an application seeking to set aside the order of dismissed for default. Learned counsel has stated that absolutely no reasons have been stated by the petitioner for the delay and no explanation in forth coming for the laches committed by the petitioner. Learned counsel has, therefore, prayed before this Hon'ble Court to dismiss the present writ petition.

6. Admittedly, in this particular case, the petitioner has preferred a statutory revision against the order dated 26.09.2013 passed in the appeal, but due to the lapses or miscommunication between the petitioner and his counsel, the revision stood dismissed for default. The authority ought to had passed an order on merits instead of dismissing the same on default as sufficient materials was there on record. The least that was expected from the authority was to pass an order on merits,



but however, the same was not done in this case. Though there are latches on behalf of the petitioner in filing the application seeking to set aside the default order, it is to be noted that the petitioner has spent nearly seven years' time trying to pursue his remedy before this Hon'ble Court by way of CWJC. Therefore, it cannot be said that the petitioner was not diligent enough in filing the application seeking to set aside the dismissed for default order.

7. Duly taking into account the totality of the circumstances and also the old age of the petitioner, this Court deems it fit to set aside the impugned order and also the order dated 26.09.2013 whereby the revision was dismissed for default and remand the matter back to the Revisional Authority concerned for taking up the revision itself on record and pass order on merit. The petitioner shall pay an cost of Rs. 5000/- payable to the Lawyer's Association Welfare/Benevolent Fund, Indian Bank A/c No.7801893276. The said amount will have to be paid within a period of two weeks from today. The petitioner shall file a copy of the receipt issued by the Lawyer's Association Welfare/Benevolent Fund, together with the copy of their order before the revisional authority and then the Revisional Authority shall restore the file and pass order on



merits.

8. With above direction, the petition stands disposed.

It is needless to mention that before passing any order the petitioner shall be given an opportunity of hearing and to pass the order on merits. Any order passed shall be communicated to the party. The entire exercise to be completed as expeditiously as possible preferably within a period of 12 week from the date of filing of the receipt of payment of Rs.5000/- to the Lawyer's Association Welfare/Benevolent Fund, Indian Bank before the said authority.

(A. Abhishek Reddy , J)

sharun/-

U			
---	--	--	--

