

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18356 of 2024

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Ahilya Devi, Wife of Late Gajendra Rai @ Gajindra Rana @ Gajender Rana
Resident of Village- Bhatoliya, Police Station and Block- Minapur, District-
Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Department of Food and Civil Supply, Government of Bihar,
Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The Collector, Muzaffarpur.
5. The Sub Divisional Officer, East Muzaffarpur.
6. The District Supply Officer, Muzaffarpur.
7. The Block Supply Officer, Minapur, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mazharul Hassan, Advocate.
For the Respondent/s : Mr. Addl. Advocate General 5

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

3 02-05-2025 Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the
following reliefs:-

*“....for issuance of an
appropriate writ/writs, order/orders and
direction/directions to quash the order
dated 20.08.2019 contained in Memo No.
1188/Supply passed by the Sub-
Divisional Officer, East Muzaffarpur and
order dated 13.12.2022 passed by the
learned District Magistrate, Muzaffarpur
passed in Supply Appeal Case No. 21 of
2019-20 whereby and whereunder the
License No. 23-17-27-01/2016 of the*



petitioner granted under the Public Distribution System (Control) order, 2001 for running the Fair Price Shop has been cancelled in very capricious manner and beyond the provisions of Control Order 2001. Petitioner filed Appeal before Court of Collector-cum-District Magistrate, Muzaffarpur. But unfortunately his appeal was dismissed for Non-prosecution then after petitioner filled restoration petition. But learned Appellate Court has also not consider and dismissed thereafter the Restoration Petition thereafter petitioner made Revision before Commissioner, Tirhut, Division, Muzaffarpur the same was also dismissed without bearing of the merit and without applying of his judicial mine.”

3. Against the order of cancellation dated 20.08.2019 passed by the Sub-Divisional Officer, East Muzaffarpur, the petitioner has filed an appeal before the District Magistrate, Muzaffarpur. However, the District Magistrate, Muzaffarpur vide order dated 13.12.2022 has dismissed the appeal filed by the petitioner for non-prosecution. Thereafter, the petitioner filed an application to restore the file but the same was dismissed on the ground that the authority did not have the power to restore the file which was dismissed for default. Thereafter, the petitioner has preferred a revision against the said order but even the Divisional Authority has rejected the same vide order dated 02.05.2023 (Annexure P/5).



4. Learned counsel appearing on behalf of the petitioner has stated that the Appellate Authority as well as the Revisional Authority ought to have passed the order on merits instead of dealing with the matter in a mechanical and pedantic manner. Learned counsel has stated that the orders of both the Appellate and Revisional Authorities are cryptic in nature and therefore, the writ petition may be allowed by setting aside the orders of the Revisional Authority as well as the Appellate Authority and remand the matter back to the Appellate Authority for passing orders afresh duly taking into consideration the grounds of the appeal filed by the petitioner.

5. Per contra, the learned counsel appearing on behalf of the Respondent-State has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that there are serious allegations against the petitioner and the Sub-Divisional Officer, East Muzaffarpur duly taking into consideration the nature of violation by the petitioner has passed the order of cancellation. That the petitioner was not diligent enough in prosecuting the appeal and therefore, the authority left with no other option had to dismiss the appeal filed by the petitioner for default. Learned counsel has stated that there are laches on the part of the petitioner in prosecuting the case and,



therefore, the present writ petition may be dismissed.

6. A perusal of the impugned order dated 13.12.2022 passed by the Appellate Authority reveals that the appeal filed by the petitioner was dismissed solely only on the ground of non-prosecution. Even though the petitioner had filed an application seeking restoration of the file, the same was dismissed on the ground that the authority did not have the necessary provision for restoring the file dismissed for default. In the revision filed by the petitioner, the Divisional Commissioner except extracting the order of the Appellate Authority has not passed any reasoned order as to why the revision has to be dismissed. The Appellate Authority ought to had passed an order on merits even if the counsel for appellant was not present but in this particular case, he has not done so. This court on the number of occasions has held that even in absence of petitioner/appellant, the authority has to pass reasoned order on merits duly taking into consideration the materials available on record which is missing in this particular case.

7. Having regard to the same, the impugned order dated 02.05.2023 passed by the Revisional Authority as well as the order dated 13.12.2022 passed by the Appellate Authority



are both set aside, the matter is remanded back to the Appellate Authority. The appellate authority shall pass a reasoned order afresh duly taking into consideration the material filed by the petitioner and also the grounds of appeal. It is needless to observe that before passing any order the petitioner shall be put on notice and 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 the copy of this order. Any order passed shall be communicated to the party.

8. With the above directions, the present Writ Petition stands disposed of.

(A. Abhishek Reddy, J)

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