

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17024 of 2023

Om Prakash Singh Son of Vikhali Singh Resident of Village- Jai Nagar Basti,
P.S.- Jai Nagar, Dist- Madhubani ... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Food and Consumer Protection,
Govt of Bihar, Patna.
3. The District Magistrate, Madhubani.
4. The Sub-Divisional Office, Jainagar, Dist Madhubani.
5. The District Supply Officer, Madhubani
6. The Block Supply Officer, Jai Nagar, District- Madhubani ... Respondents

Appearance :

For the Petitioner : Mrs. Namrata Mishara, Sr. Adv. with
Mr. Ratanakar Jha, Adv.
For the Respondents : Mrs. Kumari Amrita (Gp3)

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

4 08-05-2025 Heard the parties.

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

*(i) For issuance of an appropriate writ, order,
direction to quash the order bearing Memo No. 103
dated 06-03-2023, issued by Sub-Divisional Officer,
Jai Nagar, District-Madhubani, in Supply case No.
164/2022 by which the Licence No. 38/2016 for
running P.D.S. Shop, in favour of of petitioner was
cancelled.*

*(ii) For issuance of an appropriate writ, order,
direction to quash the order dated 07-06-2023 passed
in Supply Appeal No. 34/2023 by learned Collector,
Madhubani by which the appeal filed challenging the*



order cancelling the licence was rejected.

(iii) For issuance of an appropriate writ, order direction granting any other relief or reliefs for which the petitioner is found entitled.

3. It is the case of the petitioner that he is running a PDS shop and has been continuing without any complaint from any corner. Learned counsel for the petitioner has stated that pursuant to the show cause notice issued by the authorities the petitioner has submitted his explanation. However, the authority without considering the same has passed the order of cancellation. Thereafter the petitioner has approached the Appellate Authority who vide order dated 18.10.2022 has set aside the order of cancellation and remanded the matter back to the Sub Divisional Officer concerned for passing the orders afresh. Subsequently the petitioner has been served a show cause notice on 11.11.2022 and another show cause notice on 21.11.2023 to which the petitioner has given suitable explanations on 26.11.2022 and 13.02.2023 respectively. However, the Sub Divisional Officer while passing the impugned order has not adverted to the explanations dated 26.11.2022 and 13.02.2023 and only reiterated the contents of the earlier explanation dated 03.02.2021 which was already



considered by the said authority in the earlier round of litigation and the order passed by the said authority was set aside by the Appellate Authority. Counsel has stated that though the petitioner has taken various grounds before the appellate forum, the Appellate Authority did not consider the same and rejected the appeal filed by the petitioner in a mechanical manner. Learned counsel therefore prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the Sub Divisional Officer concerned for passing orders afresh duly taking into consideration the explanation submitted by the petitioner on 26.11.2022 and 13.02.2023.

4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present Writ Petition. Learned counsel for the Respondent-State has stated that the petitioner is having an efficacious and alternative remedy of filing the revision under the provisions of the Act but without availing the same the petitioner has straightaway filed this Writ Petition. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present Writ Petition.

5. A perusal of the impugned order passed by the Sub Divisional Officer dated 06.03.2023 reveals that the authority



while passing the order has not taken into consideration the explanation submitted by the petitioner on 26.11.2022 and 13.02.2023. The authority has simply adverted to the explanation which was submitted by the petitioner on 03.02.2021. It is pertinent to note that the said explanation was submitted to the earlier show cause notice issued by very same authority and orders passed thereafter the said order was set aside by the Appellate Authority and the matter remanded back for passing orders afresh. After remand the Sub Divisional Officer issued fresh show cause notice to the petitioner dated 11.11.2022 and 23.01.2023 and the petitioner has submitted his explanations, but there is no whisper with regard to the said explanations submitted by the petitioner. The non-consideration of the explanations submitted by the petitioner pursuant to the show cause notice dated 11.11.2022 and 23.01.2023 is itself a ground for setting the impugned order. Once the impugned order passed by the Sub Divisional Officer is held to be bad and set aside, the order passed by the Appellate Authority does not have any legs to stand and the same is accordingly set aside.

6. Having regard to the above the order dated 06.03.2023 passed by the Sub Divisional Officer and the order passed by the Appellate Authority dated 07.06.2023 are both set



aside. The matter is remanded back to the Sub Divisional Officer concerned for passing orders afresh duly taking into consideration the explanations dated 26.11.2022 and 13.02.2023 submitted by the petitioner and pass a reasoned order. 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 eight weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.

7. With the above directions, this Writ Petition petition stands disposed of.

(A. Abhishek Reddy , J)

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