

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18388 of 2024

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Arun Kumar Rai Son of Bela Rai, Resident of Village- Seniya Godanpatti,
Panchayat- Mohammadpur, Sura, Block- Gaighat, P.S.- Gaighat, District-
Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Sub Divisional Officer, Muzaffarpur.
4. The Block Supply Officer, Gaighat, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Adv.
	:	Mr. Kumar Rajdeep, Adv.
For the Respondent/s	:	Mr. Arvind Ujjawal, Standing Counsel 4

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

3 23-06-2025 Heard the learned counsel for the parties.

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

“i. For issuance of a writ in the nature of Ceterari for quashing the Order dated 28.09.2024 (Annexure-8) passed by the Sub Divisional Officer, Muzaffarpur (respondent No. 4) by which the PDS license No. 04/2016 of the petitioner has been cancelled without cross examining the consumers and passing the order of cancellation of license of the petitioner in violation of the principles of Natural Justice, inasmuch as the Impugned Orders have been passed without considering the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the
petitioner has stated that the authority vide show cause notice



dated 29.07.2024 (Annexure-P/2) has made some allegations against the petitioner to which show cause notice the petitioner has given a reply/ explanation on 06.08.2024 (Annexure-P/3) thereafter, the authority duly taking into consideration the explanation submitted by the petitioner has decided to drop the proceedings vide order dated 17.08.2024 (Annexure-P/4). Learned counsel has stated that the authority has once again issued afresh show cause notice on 27.08.2024 (Annexure-P/5) to which the petitioner has given a suitable reply on 05.09.2024 (Annexure-P/6). However, the authority without considering the same has passed the impugned order of cancellation dated 28.09.2024 (Annexure-P/8) without any application of mind. Learned counsel has stated that the very same cause of action, the authority cannot take a different view from the earlier decision taken i.e., dropping the proceedings. That once the proceedings are dropped against the petitioner, the authority ought not to have issued the second show cause notice for the very same cause of action. Further, learned counsel has stated that without going through the explanation submitted by the petitioner, the authority has passed the impugned order in a mechanical manner. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order and remand the



matter back to the authority concerned for passing orders afresh duly taking into consideration the explanation submitted by the petitioner as well as the earlier order passed by the very same authority (Annexure-P/4).

4. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner has statutory remedy of filing an appeal before the District Magistrate however, the petitioner without availing the remedy of appeal has straightaway approached this Hon'ble Court by way of present writ petition which is not permissible. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. As seen from the record, the authority has subsequent to the inspection on the complaint made by one of the consumers have issued a notice on 29.07.2024 which was suitably replied to by the petitioner and the authority with their wisdom has decided to drop the proceedings against the petitioner. However, the authority has once again issued another notice dated 05.09.2024 (Annexure-P/6) for the very same cause of action. Even though the petitioner has given a suitable reply, the authority without taking into consideration the earlier



proceedings and also the explanation submitted by the petitioner has passed the order of cancellation, this Court is of the opinion that the issuance of the second notice for the very same cause of action which earlier was dropped by the very same authority cannot be countenanced. Once the authority has decided to drop the proceedings against the petitioner, the authority cannot issue afresh show cause notice on the very same cause of action. On this ground, the present writ petition is liable to be allowed and the impugned order is set aside and the matter is remanded back to the authority to pass orders duly taking into consideration the earlier order dated 17.08.2024 (Annexure-P/4) and also 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 eight weeks from the date of receipt of a copy of this order. Any orders passed shall be communicated to the petitioner.

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

(A. Abhishek Reddy, J)

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