

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19568 of 2024

Nitish Kumar Son of Bijay Nandan Mishra @ Vijay Nandan Mishra, Resident of Village- Marpa Sirpal, P S.- Mejorganj, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through Director, Agriculture, Dept. Bihar, Patna.
2. The Joint Director, Agriculture, Tirhut Division, Muzaffarpur.
3. The District Agriculture Officer, Sitamarhi.
4. The Block Agriculture Officer, Majorganj, Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Jha
For the Respondent/s	:	Mr. Government Advocate (8)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

6 16-09-2025 Heard the learned counsel for the parties.

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

“(i) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of certiorari for quashing the order contained in Memo No. 1708 dated 29.7.2021 passed by the District Agriculture Officer, has cancelled the fertilizer license of the petitioner being license no. D-SL-20625042224451 been cancelled on the basis of institution of F.I.R. and that too without any show cause filed by the petitioner.

(ii) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of certiorari for quashing the order contained in Memo No. 52(Muz) dated 21.12.2023 passed by the Learned Joint Director Agriculture, Tirhut Division, Muzaffarpur by which he was please to direct the Licensing authority to act as per outcome of the criminal case being Majorganj P.S.Case No. 194/2022 U/s 7 of the E.C. Act.

(iii) Further for issuance appropriate



writ/order/direction in the nature of mandamus commanding the respondent to restore the Fertilizer license and supply of the petitioner without further delay.

(iv) Further for issuance appropriate writ/order/direction for which the petitioner is found to be entitled in the eye of law in the facts and circumstances of the case.”

3. It is the case of the petitioner that pursuant to an FIR being lodged against the petitioner under Section 7 of the Essential Commodities Act, *vide* Majorganj P.S. Case No. 194/2022, the license of the petitioner was suspended and the show cause notice was issued to the petitioner to file his explanation within a period of twelve hours. Thereafter, the District Agriculture Officer, Sitmarhi has cancelled the license of the petitioner solely on the basis of institution of FIR on 29.07.2022.

4. Learned counsel for the petitioner has submitted that the authority without serving the show cause notice on the petitioner has passed the impugned order of cancellation. Further, learned counsel has submitted that the anticipatory bail application filed by the petitioner was granted by this Hon'ble Court on 21.12.2022 and, thereafter, the petitioner has preferred an appeal which was disposed on 21.12.2023 directing the licencing authority to act according to the outcome of the criminal case. Learned counsel has submitted that the appellate authority without any application of mind has passed the order



in appeal and that as a matter of fact, the Majorganj P.S. Case No. 194/2022 was stayed by this Hon'ble Court until further orders. Learned counsel has stated that the order passed by the appellate authority dated 21.12.2023 cannot be sustained in the eye of law and the same has to be set aside and the matter remanded back to the authority concerned for passing orders afresh on merits. That the authority ought to have passed the orders on merits but in this particular case, he has simply directed the Agriculture Officer to take necessary action as per the final outcome of the criminal case. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition and set aside the impugned order passed by the Joint Director Agriculture in Memo No. 52(MUZ) dated 21.12.2023.

5. *Per contra*, the learned counsel for the respondent-State has vehemently opposed the very maintainability of the present writ petition. Learned counsel has submitted that the authority duly taking into consideration that the criminal case has been registered against the petitioner under Section 7 of the EC Act has cancelled the license of the petitioner after following the procedure and, therefore, the same need not to be interfered with. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.



6. Admittedly, as seen from the record, more particularly, the order of the appellate authority which the petitioner has preferred against the order of cancellation dated 29.07.2022. The appellate authority except directing the District Agriculture Officer to take necessary action based on the final outcome of the criminal case has not passed the orders on merits. Once an appeal is filed, the authority is obligated to pass orders on merits and he simply cannot reject the appeal or pass an order in a mechanical manner. Further, it is to be noted that the show cause notice reveals that only 12 hours have been given to the petitioner to file his explanation to the show cause notice.

7. This Court as well as the Hon'ble Supreme Court in a catena of cases has time and again held that whenever any show cause notice is issued to any person, the opportunity of filing his explanation should be granted to him by giving them reasonable time. The Courts have found that granting three days is also insufficient for filing explanation and has set aside the show cause notice. In this particular case, granting of only 12 hours to the petitioner to file his explanation to the show cause notice is nothing but an eye wash and opposed to the principles of natural and equity.



8. This Court in CWJC No. 5508 of 2020 dated 23.11.2021 under similar circumstances where three days period was given to file the explanation to the show cause notice has held that the same is contrary to the principles of natural justice and equity and has set aside the same.

9. Having regard to the above, this Court has no hesitation to set aside the impugned order of cancellation dated 29.07.2022 passed by the Agriculture Officer, Sitamarhi and also the order passed by the appellate authority dated 21.12.2023. The matter is remanded back to the Agriculture Officer, Sitamarhi for issuing afresh show cause notice to the petitioner and giving the petitioner sufficient time for filing his explanation. After the receipt of the explanation from the petitioner, the authority shall pass a reasoned order giving the reasons either for accepting or rejecting the explanation made by the petitioner.

10. The authority shall endeavor to complete the entire exercise as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of a copy of this order. It is needless to mention that before passing any orders, the petitioner shall be given an opportunity of hearing. Any orders passed shall be communicated to the petitioner.



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

(A. Abhishek Reddy, J)

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