

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22687 of 2019

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Nandkishor Prasad, Son of Tilakdhari Prasad, Resident of Village-Kharauan,
Village Panchayat-Moramardana, Police Station-Bodh Gaya, District Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub-Divisional Officer, Sadar Gaya.
4. Assistant District Supply Officer, Sadar Gaya.
5. The Block Supply Officer, Bodh Gaya, Dist-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binay Kumar, Adv.

For the Respondent/s : Mr.S.Raza Ahmad (AAG 5)

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

2 11-02-2026 Heard learned counsel for the parties.

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

“.....for issuance of appropriate writ/writs, order/orders and direction/directions to quash the order dated 17-10-2019 contained in memo No. 966 by which the Ld. Sub Divisional Officer, Sadar Gaya has capaciously been cancelled the License No. 08/18 of the petitioner carrying on business under the Public Distribution System as a P.D.S dealer and for direction upon the respondent No. 3 to continue allocation to



the Public Distribution System Shop of the petitioner after declaring the cancelation order null and void and/or pass such other order(s) as your Lordships may deem fit and proper under the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner submits that the Respondent No. 3, i.e., Sub-Divisional Officer has passed the order of termination of the P.D.S. license of the petitioner without any application of mind and contrary to the provisions of the Act. Learned counsel further submits that pursuant to the inspection which has been taken place on 28.07.2019, the Block Development Officer has issued a show cause notice to the petitioner on 22.08.2019 (Annexure 1), to which the petitioner has given a suitable explanation (Annexure 2). Thereafter the authority without advertng to the said show cause filed by the petitioner has passed the impugned order of cancellation based on the opinion given by the Assistant District Supply Officer. Learned counsel submits that the impugned order is bereft of any reasons, the authority except stating that the explanation submitted by the petitioner is not satisfactory, has neither adverted to the explanation nor passed the order on merit. Learned counsel



therefore submits that the impugned order of termination may be set aside and the matter remanded back to the authority concerned for passing orders afresh duly giving an opportunity of hearing to the petitioner.

4. Per contra, the learned counsel appearing on behalf of the Respondent-State has vehemently opposed the very maintainability of the writ petition. Learned counsel has stated that the petitioner is having an alternative and efficacious remedy of filing an appeal before the District Magistrate under Clause 32(3) of the Bihar Targeted Public Distribution System (Control) Order, 2016. However, the petitioner without availing the same has straight away approached this Hon'ble Court by filing the present CWJC. Learned counsel further submits that there are serious allegations against the petitioner with regard to the running of the PDS shop and the authorities duly taking into consideration the report of the Assistant District Supply Officer has passed the impugned order. That there are no infirmities in the order passed by the Sub-Divisional Officer which requires any interference from this Hon'ble Court under Article 226 of the Constitution of India.

5. A perusal of the impugned order dated 17.10.2019 passed by the Sub-Divisional Officer reveals that the



authority has relied on the report submitted by the Assistant District Supply Officer and passed the order of termination. Further it is to be noted that the authority except stating that the explanation submitted by the petitioner is not satisfactory has not given the reasons for passing the order.

6. This Court as well as the Apex Court, on number of occasions, have held that any administrative authority/Court/quasi judicial have to necessarily give reasoning in the order/s passed by them. Unless reasoning is given in the order, neither the party nor Courts before whom the order is challenged will be in a position to appreciate as to what has weighed with the said authority either for dismissing or allowing the application of the party. Though the quasi judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial order, yet they are expected to pass a reasoned order which should be precise, concisely setting out the reason/s for allowing or dismissing the contention/application, as the case may be. However in this Case it is to be noted that the authority has not adverted to the explanation submitted by the petitioner.

7. In Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota vs. Shukla



and Brothers, reported in **(2010) 4 SCC, 785**, the Hon'ble

Supreme Court has held as under:

“..... while exercising the power of judicial review on administrative action and more particularly the judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.....

..... A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer Reasons are the soul of orders Non-recording of reasons could lead to dual infirmities; Firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. The orders of the court must reflect what weighed with the court in granting or declining the relief claimed by the applicant.”

8. Having regard to the above, the impugned order dated 17.10.2019 passed by the Sub-Divisional Officer is set aside. The matter is remanded back to the Sub-divisional Officer



(Respondent No. 3) for passing orders afresh. In case the authority relays on any enquiry report, the same shall be furnished to the petitioner and he shall be given an opportunity of filing a fresh explanation. Thereafter the authority shall pass a reasoned order duly advertent to the explanation submitted by the petitioner.

9. 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 12 weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the petitioner.

10. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

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