

(2020) 06 PAT CK 0073

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 6093 Of 2020

Shambhu Nath Jha

APPELLANT

Vs

State Of Bihar And Others

RESPONDENT

Date of Decision : 05-06-2020

Acts Referred:

Citation : (2020) 06 PAT CK 0073

Hon'ble Judges : Madhuresh Prasad, J

Bench : Single Bench

Advocate : Kaushalesh Choudhary, Babita Singh

Final Decision : Allowed

Judgement

Madhuresh Prasad, J

1. This matter was mentioned for listing on urgent basis, which was allowed by Hon'ble the Chief Justice.
2. Accordingly, the same has been listed today for consideration through video conferencing in view of the nationwide lockdown on account of COVID-19 pandemic.
3. The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.
4. Heard learned counsel for the petitioner as well as the learned counsel appearing for the respondent-State.
5. The petitioner has approached this Court being aggrieved by the cancellation of his Public Distribution System (PDS) shop licence for distribution of essential commodities. The impugned order is dated 05.05.2020, bearing Memo No.239, issued by the Sub-divisional Officer, Darbhanga, by which the petitioner's PDS shop licence No.22/16 has been cancelled.

6. When the matter was last taken up on 01.06.2020, this Court found that the order was without assigning any reason whatsoever. It is in these circumstances that the learned counsel for the State sought time to seek instructions whether the only order visiting the petitioner with penal consequences was the impugned order dated 05.05.2020, or whether any other order had been passed wherein any reason has been assigned.

7. After obtaining instructions, the State Counsel submits today that the order dated 05.05.2020, impugned in the instant proceedings, is the only order cancelling the petitioner's PDS shop licence.

8. The Court, therefore, in the circumstances is left with no option but to quash the order dated 05.05.2020, bearing Memo No.239, issued by the Sub-divisional Officer, Darbhanga, inasmuch as the same does not assign any reason whatsoever.

9. It is a trite law that an order having penal/civil consequences must be in accordance with the prescribed procedure and also must show due application of mind.

10. Prior to issuance of the impugned order, the petitioner had submitted his representation dated 19.03.2020 in response to the notice dated 28.02.2020. The impugned order of the Sub-divisional Officer does not show any consideration on the points/issues raised by the petitioner in his representation/response dated 19.03.2020. The effective portion of the order dated 05.05.2020 reads as follows :

".....स्पष्टीकरण के समीक्षोपरान्त विक्रेता का स्पष्टीकरण संतोषजनकस्पष्टीकरण नहीं पाये जाने के कारण स्पष्टीकरण अस्वीकृत किया जाता है।"

The same is an order without assigning any reason whatsoever.

11. Courts have repeatedly frowned upon such orders having civil/penal consequences without any consideration or without any reason whatsoever. In this connection, the Court would refer to a decision of the Apex Court in the case of Kranti Associates Private Ltd. & Anr. Vs. Masood Ahmad Khan & Ors., reported in (2010) 9 SCC 496.

12. The order dated 05.05.2020 on this ground alone is violative of the principles of natural justice, arbitrary and unsustainable and is accordingly quashed.

13. Learned State Counsel submits that the authorities may be left with the discretion to proceed against the petitioner in accordance with law after issuing a notice in respect of the proposed cancellation in terms of the rule.

14. With liberty as aforesaid, the writ application stands allowed. As a result of quashing of the impugned order dated 05.05.2020, the petitioner shall be entitled to all consequential benefits, till such time any fresh action is taken, in accordance with law.