

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13928 of 2016

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Shyama Devi W/o Late Nagendra Prasad Resident of village - Nimi, Gram
Panchayat - Nimi, P.S. Fatehpur, District - Gaya

.... Petitioner

Versus

1. The State of Bihar through the Collector, Gaya
2. The Collector, Gaya
3. The Sub - Divisional officer, Sadar, Gaya
4. The Block Supply officer, Fatehpur, Gaya

.... Respondents

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Appearance :

For the Petitioner : Mr. N. K. Agarwal, Sr. Advocate
Mr. D. N. Tiwari, Advocate

For the State : Mr. S. Raza ahmad- AAG 5,
Mr. Vishwambhar Pd., A.C. to A.A.G. 5

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-09-2016

Heard parties.

Sole ground taken by the petitioner for assailing Annexure

3 which is an order dated 26.07.2016 passed by the Licensing
Authority-cum- sub-Divisional Officer, Sadar Gaya cancelling the
PDS licence, is that unless show cause notice issued to the petitioner
discloses its purpose that it was being issued for a proceeding of
cancellation of licence, the licence cannot be cancelled.

This issue is no longer *res integra* as this Court on several
occasions has held that unless specific notice is issued for cancellation
of licence it cannot be held that adequate opportunity was granted to

the licensee for making out his case as per the mandate of Clause 7(ii) of the Public Distribution System (Control) Order, 2001. A reference is made to an unreported judgment dated 12.07.2015 rendered by this Court in **C.W.J.C. No.2488 of 2014 (Jagat Narayan Singh Vs. the State of Bihar & Ors.)**.

Accordingly, this writ application succeeds on the aforesaid sole ground. The impugned order as contained in Annexure 3 is quashed and set aside. As consequence thereof, the licence of the petitioner has to be restored immediately. However, this order would not come in the way of the Licensing Authority in launching a fresh proceeding if it comes to the conclusion that petitioner has violated any provision of the PDS(Control) Order, 2001 or terms and conditions of the licence etc. but in such case, reasonable opportunity would have to be granted to the petitioner.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
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