

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18495 of 2017

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Ram Chandra Yadav, Son of late Ram Roop Yadav, Resident of Village- Matihani Ghat, P.O. Mansi, P.S. Mansi, District- Khagaria.

.... Petitioner

Versus

1. The Indian Railways through Its Secretary, Ministry of Rail, Rail Bhawan, New Delhi.
2. The Railway Board, Ministry of Railway, Government of India.
3. The Divisional Rail Manager (Commercial), East Central Railway, Sonpur, Saran.
4. The Station Superintendent, Khagaria.
5. The Divisional Commercial Inspector, Khagaria.

.... Respondents

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Appearance :

For the Petitioner : Mr. Aditya Prakash Sahay, Advocate

For the Respondents : Mr. Kumar Alok, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 19-03-2018

Heard learned counsel for the petitioner as well as
learned counsel for the respondents.

2. The present writ petition has been filed for quashing the order dated 20.11.2017 passed by Respondent Divisional Rail Manager Commercial, Sonpur whereby, without asking any show cause and without assigning any reason, the petitioner's fruit vending licence for fruit stall at platform No. 2, Khagaria Railway Station has been terminated.

3. Learned counsel for the petitioner submits that the impugned order of termination has been passed without service of show cause notice and without grant of any opportunity of being heard in the matter. It is, therefore, submitted that such order cannot be sustained in law as it is in violation of the fundamental principles of



natural justice.

4. Learned counsel for the respondents appears and has been heard. Though a counter affidavit has been filed, the stand of the petitioner with regard to non-issuance of a show cause notice has not been denied.

5. It is well settled that any action of an authority which has civil consequences must conform to the principles of natural justice. It is only when a show cause notice is served that a person is made aware of the proposed action contemplated to be taken against him, in order to enable him to furnish a suitable reply in his defence. Rules of natural justice are required to be followed even in administrative action. This Court is therefore of the view that the respondents ought not to have terminated the fruit vending licence unilaterally without so much as issuance of prior show cause notice which has evidently caused serious prejudice to the petitioner. This view finds support from a Division Bench judgment of this Court dated 09.10.2017 passed in LPA No. 1153 of 2017 (*Kamladitya Construction Pvt. Ltd. Vs. The State of Bihar & Ors.*).

6. Accordingly, the impugned order dated 20.11.2017 passed by respondent-Divisional Rail Manager Commercial, Sonpur (Annexure-1) is hereby quashed with liberty to the respondents to issue an appropriate show cause notice to the petitioner, if so advised, and proceed in accordance with law.

7. It is made clear that in case the stand of the petitioner



denying non-service of show cause notice prior to the order of termination being passed is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

8. The writ petition accordingly stands allowed.

(Vikash Jain, J)

B.T/-

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