

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.911 of 2018

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Krishna Murari Singh the PACS Chairman Chowar son of Bachchu Singh
Resident of Village -Chowar, Police Station - Tankuppa, District - Gaya.

.... Petitioner

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 District Supply Officer, Gaya.
4. The Sub-Divisional Officer, Sadar Gaya.
5. The Block Supply Officer, Tankuppa, Dist. - Gaya.

.... Respondents

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Appearance :
For the Petitioner : Mr. Binay Kumar, Advocate.
For the Respondents : Mr. S. Raza Ahmad, AAG-5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-02-2018

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The writ petition has been filed for quashing the order dated 31.10.2017 contained in Memo No. 696 passed by the Licensing Authority cum the Sub-Divisional Officer, Sadar Gaya, whereby the license no. 03/2011 of the petitioner granted under Public Distribution System Control Order, 2001 now under Bihar Targeted Public Distribution System (Control) Order, 2016 has been cancelled; and for direction upon the respondent no. 4 to continue allocation to the Public Distribution System Shop of the petitioner after declaring the cancellation order null and void.

3. It is submitted that the impugned order of cancellation of the petitioner's PDS licence has been passed without a show cause notice in that regard and the only show cause notice issued was for the purpose of suspension of the petitioner's licence. It is therefore



submitted that the impugned action has been taken without confronting the petitioner with regard to proposed cancellation of the licence. Reliance is placed on the decisions of this Court rendered in *Bhola Prasad Yadav vs. The State of Bihar & others*, 2010(3) PLJR 825 and also in *Parsauni Khirodhar Primary Agriculture Co-operative Society Ltd. & others vs. The State of Bihar and others*, 2015(3) PLJR 189.

4. Learned counsel for the respondents appears and has been heard. However, he is unable to controvert the stand of the petitioner that no show cause for proposed cancellation of the licence was issued.

5. Having heard the parties and on a consideration of the materials on record, this Court finds merit in the writ petition. It is not in dispute that the show cause was issued only with regard to suspension of the petitioner's licence and no further show cause was issued proposing cancellation of the PDS licence. The impugned order of cancellation cannot therefore be said to be founded upon a show cause for proposed cancellation which vitiates the decision making process as being violative of the principles of natural justice. Moreover, the show cause notice as issued,, in not indicating the proposed cancellation of the licence, failed to fulfill the mandatory requirement in terms of Clause 27(ii) of the Bihar Targeted P.D.S. (Control) Order, 2016 as held in *Parsauni Khirodhar Primary Agriculture Co-operative Society Ltd. & Ors. vs. The State of Bihar and others*, 2015 (3) PLJR 189.

6. The impugned order dated 31.10.2017 is accordingly quashed. The writ petition stands allowed.

7. It is made clear however that the respondents shall be at liberty to take fresh steps in the matter after issuance of fresh show cause notice and in accordance with law, if so advised.

8. In the meantime, supplies to the petitioner shall be restored without delay until fresh orders are passed by the Respondent



no. 4.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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