

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9462 of 2018

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Bholi Sao, Son of Mahaveer Sao, Resident of Village- Deora, Village-
Panchayat- Garari Police Station- Konch, District- Gaya.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, at Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Gaya.
4. The Sub Divisional Officer, Tikari, Dist.- Gaya.
5. The Block Supply Officer, Konch, Dist.- Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate.

For the Respondents : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 19-06-2018

The writ petition has been filed for quashing the order dated 21.06.2016 issued vide Memo No. 390 by which the learned Sub-Divisional Officer, Tikari has cancelled the licence no. 33/92 of the petitioner; and quash the consequential order dated 07.04.2017 as well as 27.02.2018 passed in Supply Appeal No. 31/2016 by the learned Collector, Gaya and Supply Revision Case No. 101/2017 passed by the Commissioner, Magadh Division, Gaya dismissing the appeal and revision respectively have affirmed the order of the learned Sub-Divisional Officer, Tikari.

2. It is submitted that the impugned order of cancellation of the petitioner's PDS licence has been passed without a show cause in that regard and the only other show cause 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.

3. 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.*

4. The impugned order dated 21.06.2016 (Annexure-2), the appellate order dated 07.04.2017 (Annexure-3) as well as revisional order dated 27.02.2018 (Annexure-4) are accordingly quashed. The writ petition stands allowed.

5. 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.

6. 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/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.06.2018
Transmission Date	N.A.

