

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8688 of 2018

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Namuna Devi, Wife of Sri Sanjay Kumar Yadav, Resident of Village-Mauji
Harisingh, P.O.-Sital Rampur, P.S.-Bakhari, District-Begusarai.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Begusarai, District-Begusarai.
3. The Sub-Divisional officer, Bakhari, District-Begusarai.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh

For the Respondents : Mr. S. RAZA AHMAD- AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-05-2018

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

2. The present writ petition has been filed for the
following reliefs:-

“(i) A Certiorari for quashing and setting aside the order passed by the Sub-Divisional Officer, Bakhari vide Memo No. 507 dated 26/03/2018 whereby and whereunder license of the petitioner’s Fair Price Shop has been cancelled contained in Annexure-1.

(ii) A mandamus commanding the Respondents to restore the petitioner’s license as before and to make allotment for the petitioner’s shop.

(iii) Any other relief or reliefs for which petitioner may be found entitled in the fact and circumstances of the present case may be granted to him.”



3. Learned counsel for the petitioner assails the impugned order of cancellation of her PDS licence on the ground that the show cause notice did not indicate the proposed action for cancellation of the licence which is a mandatory requirement in terms of Clause 7(ii) of the Bihar Fair Price Shop Order, 2007. Reliance is placed on a decision of this Court in *Prasauni Khirodhar Primary Agriculture Co-operative Society Ltd. & Ors Vs. The State of Bihar and others*, 2015(3) PLJR 189.

4. Learned counsel for the respondents appears and has been heard. He submits that remedy by way of appeal before the District Magistrate is available to the petitioner against the impugned order, which has not been availed of by the petitioner.

5. This Court is of the view that the bar of alternative remedy would not disentitle the petitioner for relief in a case of the present nature where the impugned order is founded upon a show cause notice which is not sustainable in law. Clause 7(ii) of the Bihar Fair Price Shop Order, 2007 clearly mandates that no order of cancellation shall be made under this clause unless the licensee has been given a reasonable opportunity for stating his or her case against the proposed cancellation.

6. The impugned order contained in Memo No. 507 dated 26.03.2018 (Annexure-1) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Bakhari, District Begusarai



(respondent no. 3) for passing orders afresh after granting an opportunity of hearing to the petitioner in accordance with law. Supplies to the petitioner shall be restored without delay until fresh orders are passed by the Respondent no. 3.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	.05.2018
Transmission Date	N.A.

