

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18340 of 2017

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Nirmal Kumar Singh, Son of Sri Shivji Singh, Resident of Panchayat-Khanani
Kala, P.S.- Piro, District- Bhojpur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies.
2. The Divisional Commissioner, Bhojpur, Ara.
3. The District Magistrate, Bhojpur.
4. The Sub Divisional Officer, Piro, Bhojpur.
5. The Block Supply Officer, Piro, Bhojpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar Mishra, Advocate
For the Respondents : Mr. S. Raza Ahmad, AAG 5
Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 04-01-2018

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

2. The writ petition has been filed for the following
reliefs—

“(i) For quashing the order contained in Memo no. 499 dated 03.11.2017, issued under the signature of respondent Sub Divisional Officer, Piro, Bhojpur, whereby and whereunder the license no. 53/2016 of the petitioner has been cancelled in the most arbitrary manner.

(ii) For quashing the notice contained in memo no. 477 dated 14.10.2017 issued under the signature of respondent Sub Divisional Officer, Piro, Bhojpur whereby and whereunder the petitioner was directed to file show cause.



(iii) Any other order or orders as your Lordships may deem fit and proper in the facts and circumstances of the case be granted to the petitioner.”

3. 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*.

4. Learned counsel for the respondents appears and has been. The stand of the petitioner that no show cause for proposed cancellation of the licence was issued, has not been controverted as no counter affidavit has been filed till date.

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, in not indicating the proposed cancellation of the licence, also failed to fulfill the mandatory requirement in terms of Clause 7(ii) of the Bihar Fair Price Shop Order, 2007 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 contained in Memo No. 499 dated 03.11.2017 (Annexure-1) 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)

B.T/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.01.2018
Transmission Date	N.A.

