

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16884 of 2017

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Kaushal Kumar Gupta, Son of late Sri Bhagwan Das, Resident of Village-
Panwari, P.S.-Sikrahatta, District-Bhojpur.

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar Mishra, Advocate

For the Respondents : Mr. M. N. Roy, AC to SC 4
Mr. S.N. Mallick, AC to SC 4

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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. 500
dated 03.11.2017, issued under the signature of respondent
Sub Divisional Officer, Piro, Bhojpur, whereby and
whereunder the license no. 17/2016 of the petitioner has
been cancelled in the most arbitrary manner.*

*(ii) For quashing the notices dated 11.04.2017, 24.04.2017
& 01.06.2017 whereby show cause has been asked as to why
no appropriate action be taken against the petitioner.*

*(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 heard. 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. 500 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/Chandran

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

