

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11700 of 2017

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Tufani Mian @ Md. Tufani Mian Son of Farman Mian, Resident of Village-
Sinhpur Haraiya, P.S.- Raxaul (Bariya), District- East Champaran.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, East Champaran, Motihari.
3. The Sub-Divisional Officer, Raxaul, East Champaran.
4. The Block Supply Officer, Raxaul.

.... Respondents

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Appearance :

For the Petitioner : Mr. Anuj Kumar, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-05-2018

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

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

*“(A). A writ in the nature of Certiorari or any other
appropriate writ/s, order/s, direction/s:*

*(i) For quashing the order dated
25.04.2017, passed in Supply Appeal No.
61/2011 by the District Magistrate, East
Champaran, Motihari (Respondent No2).,
whereby and whereunder the District
Magistrate was pleased to dismiss the
appeal and uphold the order dated
14.12.2011 passed vide Memo No. 760, vide
which the Sub-Divisional Officer, Raxaul,
ordered cancellation of the PDS license of
the Petitioner.*



(B). A writ in the nature of mandamus or any other appropriate writ/s, order/s direction/s, commanding the Respondent authorities for the following:

(i) To stay the operation of order dated 25.04.2017 passed in Supply Appeal No. 61/2011 by the District Magistrate, Raxaul.

(ii) To restore the PDS license of the Petitioner and allow him to run his PDS shop.

(C) To any other relief/s to which the petitioner is found entitled to.”

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that show cause notice was not served upon the petitioner and he was not given any opportunity of being heard or adducing evidence in that regard. A specific stand has been taken in paragraph 9 of the writ petition that the impugned order of cancellation of licence has been passed without providing serving show cause notice to the petitioner, though the same had been relied upon in the impugned order. Such infirmity could not be cured in the appeal as well.

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-service of the show cause notice has not been controverted, as no counter affidavit has been filed till date.

5. In the above view of the matter, this Court is satisfied that



non-service of the show cause notice on the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The order dated 25.04.2017 passed in Supply Appeal No. 61/2011 by the District Magistrate, East Champaran, Motihari (Annexure-3) and the impugned order dated 14.12.2011 passed vide Memo No. 760 (Annexure-1) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Raxaul, East Champaran for taking decision afresh in the matter after serving show cause notice upon the petitioner and granting an opportunity of hearing in accordance with law. Supplies to the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 3.

6. It is made clear that in case the stand of the petitioner denying non-service of the show cause notice prior to order of cancellation being passed is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.05.2018
Transmission Date	N.A.

