

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11688 of 2014

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Sunil Kumar Gupta, Son of Late Bashu Sah, resident of village- Barabi, P.S.-
Punpun, District- Patna

.... Petitioner

Versus

1. The State of Bihar through Secretary, Food and Civil Supply Department,
Patna
2. The SDO, Masaurhi, Patna
3. The BDO, Punpun, District- Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Anand, Advocate

For the Respondents : Mr. Ranjay Kr. Singh, AC to SC16

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-07-2018

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

2. The present writ petition has been filed challenging the
order contained in Memo No. 164 dated 11.07.2012 passed by the Sub-
Divisional Officer, Masaurhi (Annexure-3) by which the license granted
to the petitioner for carrying on the business of PDS shop has been
cancelled.

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 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 with regard to non-service of the show cause has not been controverted in the counter affidavit.

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. 164 dated 11.07.2012 passed by the Sub-Divisional Officer, Masaurhi (Annexure-3) is hereby 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, licence of the petitioner shall be restored without delay until fresh orders are passed by the Respondent no.2.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
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