

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9345 of 2016

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Sita Ram, Son of Late Chhattu Ram, Resident of Village- Madhopur, P.S.- Tarari,
District- Bhojpur.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection Department, Bihar, Patna
2. The District Magistrate-cum-Collector, Bhojpur at Ara.
3. The Sub-Divisional Officer, Piro, Bhojpur at Ara.
4. The Block Supply Officer, Tarari, Bhojpur at Ara.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjeev Kr. Mishra, Advocate

For the Respondents : Mr. Utsav Kumar, AC to GA 11

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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 quashing of the
order contained in memo no. 344 dated 16.05.2011, passed by the
Learned Sub Divisional Officer, Piro, Ara by which the licence of the
petitioner to run the public distribution shop being licence no.
07/2007 has been cancelled and further for quashing the order dated
02.02.2016 passed in Revenue Appeal No. 08/2011-12 (Sitaram Versus
The State of Bihar & Ors) passed by the learned Collector, Bhojpur at
Ara.

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. Such infirmity could not be cured in the appeal as well.

4. Learned counsel for the respondents relies on the counter affidavit to oppose the writ petition. However, he is unable to controvert the stand of the petitioner that no show cause for proposed cancellation of the licence was issued.

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. 344 dated 16.05.2011 (Annexure-3) as well as the appellate order dated 02.02.2016 passed by the learned Collector are 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. 3.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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