

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8343 of 2014

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Parmeshwar Paswan Son of Late Hari Lal Paswan Resident of Village- Veer Singh Pur, Police Station- Kalyanpur, District- Samastipur

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Patna
2. The District Magistrate, Samastipur
3. The Sub-Divisional Officer, Sadar, Samastipur
4. The District Supply Officer, Sadar, Samastipur
5. The Block Supply Officer, Kalyanpur, District- Samastipur

.... Respondents

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Appearance :

For the Petitioner : Mr. Rana Sanjay Kumar Singh, Advocate

For the Respondents : Mr. Akshay Lal Prasad, AC to GA 11

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 17-07-2018

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

2. The present writ petition has been filed for quashing the order contained in Memo No. 585/S Samastipur dated 18.10.2013 passed by the Sub-Divisional Officer, Sadar, Samastipur (Annexure-1) by which licence of fair price shop of the petitioner vide license no. 07 of 2008 has been cancelled; also for quashing the appellate order dated 10.12.2013 (Annexure-3) passed by learned District Magistrate, Samastipur in P.D.S Licence Cancellation Appeal No. 101 of 2013; and further for restoring the petitioner's licence.

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 paragraphs 9 and 10 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 in the counter affidavit.

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 appellate order dated 10.12.2013 passed by the District Magistrate, Samastipur (Annexure-3) and the impugned order contained in Memo No. 585/S Samastipur dated 18.10.2013 (Annexure-1) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sadar, Samastipur 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. The licence of 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	19.07.2018
Transmission Date	N.A.

