

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3310 of 2015

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Rajendra Prasad S/o Late Kishore Sao R/o Village- Harnaut, P.S.- Harnaut,
District- Biharshariff (Nalanda).

.... Petitioner

Versus

1. The State of Bihar through Secretary, Food and Civil Supply Department,
Govt, of Bihar, Patna.
2. The District Magistrate, Biharshariff (Nalanda)
3. The Sub Divisional Officer, Biharshariff (Nalanda)

.... Respondents

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Appearance :

For the Petitioner : Mr. Anujit Sinha, Advocate.

For the Respondents : Mr. Rajesh Singh, GP-16

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-01-2018

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

2. The writ petition has been filed for setting aside the
order dated 26.07.2014 passed by learned District Magistrate, Nalanda
in Supply Case No. 54/2006 by which the learned District Magistrate
was pleased to dismissed the appeal preferred by the petitioner
challenging the order dated 02.06.2006 by which the Sub-Divisional
Officer, Biharsharif was pleased to cancel the license of the petitioner
to carry on trade as an P.D.S. dealer.

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
Khiroddhar Primary Agriculture Co-operative Society Ltd. & others vs. The
State of Bihar and others*, 2015(3) PLJR 189.

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 dated 26.07.2014 (Annexure-5) 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. 3.

Md. Ibrarul/-

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.01.2018
Transmission Date	N.A.

