

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17060 of 2016

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Shatrughan Sah, S/o Late Jagat Sah, Village Maniaiba, Panchayat- Enarva,
Block- Khajauli, District - Madhubani.

.... Petitioner

Versus

1. The State of Bihar through its Secretary, Food and Supply Department, Bihar, Patna.
2. The Director, Food and Supply Department, Bihar, Patna.
3. The District Magistrate, Madhubani.
4. The District Supply Officer, Madhubani.
5. The Sub-Divisional Officer, Sadar Madhubani.
6. The Block Supply Officer, Khajauli, Madhubani.

.... Respondents

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Appearance :

For the Petitioner : Mr. D.N. Tewari,
Mr. Shashi Bhushan Kumar, Advocates
For the Respondents : Mr. Sanjay Kr. Giri- GP9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-02-2018

I.A. No. 939 of 2018

The interlocutory application has been filed with the prayer for amendment of the writ petition for setting aside the order contained in memo no. 444 dated 18.10.2014 (Annexure-2) passed by the learned Sub-Divisional Officer, Sadar Madhubani.

2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated as forming part of the writ petition

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



4. The present writ petition has been filed for quashing the order dated 04.03.2016 passed in Supply Appeal Case No. 29/2015-16 by Collector, Madhubani whereby and whereunder the appeal of the petitioner has been rejected; for directing the respondent authority to restore the shop of the PDS; and for connected reliefs.

5. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that no show cause notice was served upon the petitioner and he was never given any opportunity of being heard or adducing evidence in that regard. A specific stand has been taken in paragraph 7 of the writ petition that the impugned order of cancellation of licence has been passed without issuing show cause notice to the petitioner. Such infirmity could not be cured in the appeal as well.

6. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-issuance of show cause notice has not been controverted as no counter affidavit has been filed till date even though about two years have elapsed since the writ petition was filed.

7. In the above view of the matter, this Court is satisfied that non-issuance of show cause notice to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The appellate order dated 04.03.2016 passed by Collector Madhubani in Supply Appeal Case No. 29/2015-16 (Annexure-1) and



the impugned order dated 18.10.2014 passed by Respondent no. 5 as contained in Annexure-2 are hereby quashed and the matter remanded to the Sub-Divisional Officer, Sadar, Madhubani for taking decision afresh in the matter after issuing show cause notice to 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. 5.

8. It is made clear that in case the stand of the petitioner denying issuance of 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.

9. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.02.2018
Transmission Date	N.A.

