

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6508 of 2016

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Gautam Prasad son of Sri Mahadeo Prasad resident of village & G.P. Sarauti,
Block and P.S. Panchrukhi, District Siwan.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food, Civil Supplies and Consumer Affairs, Govt. of Bihar, Patna.
2. The Divisional Commissioner, Saran Division, Saran.
3. The District Magistrate cum Collector, Siwan.
4. The Sub Divisional Officer Siwan Sadar, Siwan.
5. The Block Supply Officer, Block Panchrukhi, District Siwan.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Harsh Anuj, Adv
Mr.Prashant Kumar, Adv
For the Respondent/s : Mr. Indradeo Prasad, SC 27
Mr. K.K.Tiwary, AC to SC 27

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-03-2018

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

2. The present writ petition has been filed for quashing the order dated 31.01.2016 passed in Supply Revision No. 124/2013 by which the learned Commissioner, Saran has upheld the order of the learned Court of Collector, Siwan dated 04.12.2012 in Supply Appeal Case No. 31/11-12 upholding the order of the Sub Divisional Officer, Siwan Sadar, Siwan, (Respondent No. 4) issued vide memo no. 431 dated 28.04.2011 by which the PDS licence of the petitioner being Licence No. 795/07 has been cancelled without giving an opportunity of hearing and monthly allotment has been stopped; and further to restore 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 para 10 of the writ petition that the impugned order of cancellation of licence has been passed without serving show cause notice to the petitioner, though the same had been relied upon in the impugned order.

4. Learned counsel for the respondents appears and has been heard.

5. In the above view of the matter, this Court is satisfied that non-service of the show cause notice to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 28.04.2011 (Annexure-1),the appellate order dated 04.12.2012 (Annexure-4) and the revisional order dated 31.01.2016 (Annexure-5) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Siwan Sadar, Siwan 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. Supplies to the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 4.

6. It is made clear that in case the stand of the petitioner denying non-service 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.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
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