

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4785 of 2015

=====

Madho Kumar Singh S/o Late Shivbaran Prakash, Resident of Village-
Mankipar, P.S.- Kadinganj, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through Secretary, Food & Civil Supply Department,
Patna.
2. The Additional District Supply Officer, Patna.
3. The Sub Divisional Officer, Masaurhi, Patna

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Vijay Anand, Advocate

For the Respondents : AC to GA 6

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-08-2018

Heard learned counsel for the petitioner as well as

learned counsel for the respondents.

2. The present writ petition has been filed challenging

the order contained in Memo No. 306 dated 31.10.2014 passed by

S.D.O. Masaurhi whereby and whereunder the license No. 216 of 2007

for carrying on the business of a public distribution shop was

cancelled.

3. Learned counsel for the petitioner assails the

impugned order of cancellation of his PDS licence on the ground that

the show cause notice did not indicate the proposed action for



cancellation of the licence which is a mandatory requirement in terms of Clause 7(ii) of the Bihar Fair Price Shop Order, 2007. Reliance is placed on a decision of this Court in *Prasauni Khirodhar Primary Agriculture Co-operative Society Ltd. & Ors Vs. The State of Bihar and others, 2015(3) PLJR 189*.

4. Learned counsel for the respondents appears and has been heard. He submits that remedy by way of appeal before the District Magistrate is available to the petitioner against the impugned order, which has not been availed of by the petitioner.

5. This Court is of the view that the bar of alternative remedy would not disentitle the petitioner for relief in a case of the present nature where the impugned order is founded upon a show cause notice which is not sustainable in law. Clause 7(ii) of the Bihar Fair Price Shop Order, 2007 clearly mandates that no order of cancellation shall be made under this clause unless the licensee has been given a reasonable opportunity for stating his or her case against the proposed cancellation.

6. The impugned order contained in Memo No. 306 dated 31.10.2014 (Annexure-2) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Masaurhi, District Patna (respondent no. 3) for passing orders afresh after granting an opportunity of hearing to the petitioner in accordance with law.



Licence of the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 3.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.08.2018
Transmission Date	N.A.

