

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16394 of 2012

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Sudhir Pandey S/O Late Paras Nath Pandey, Resident of Village- Jagatpur
Pakari, P.S- Krishnagarh, District- Bhojpur.

.... Petitioner

Versus

1. The State of Bihar
2. The Sub Divisional Officer, Sadar, Arrah, Bhojpur.
3. The Collector, Arrah, Bhojpur.
4. The Commissioner, Patna Division, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. VIJAY ANAND, Advocate.

For the Respondents : Mr. Avnish Nandan Sinha, GP-11

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-07-2018

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

2. The writ petition has been filed for challenging the
order dated 24.01.2012 passed by learned Commissioner, Patna
Division in Supply Revision No. 267 of 2007 whereby and whereunder
the revision preferred by the petitioner was rejected.

3. It is submitted that the impugned order of cancellation
of the petitioner's PDS licence has been passed without a show cause
notice in that regard and the only other show cause notice 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 Khirodhar Primary Agriculture Co-operative Society*
Ltd. & others vs. The State of Bihar and others, 2015(3) PLJR 189.

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 has not been controverted, as no counter affidavit has



been filed till date.

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 as issued, 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 24.01.2012 passed by the Commissioner, Patna Division (Annexure-6) 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. 2.

(Vikash Jain, J)

Md. Ibrarul/BT

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