

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5953 of 2015

=====

Madandhari Paswan, S/o Late Rooplal Paswan, Resident of Village- Sikariya,
P.S.- Paliganj, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Collector, Patna.
2. The Sub Divisional Officer, Paliganj, Distt-Patna.
3. The Block Supply Officer, Paliganj, Distt- Patna.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Advocate
Mr. Dhananjaya Nath Tiwari, Advocate.

For the Respondents : Mr. Rishiraj Sinha, GP-19

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-08-2018

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 03.07.2013 contained in Memo No. 250/Aa passed by the learned Sub-Divisional Officer, Paliganj whereby the license of the petitioner has been cancelled.

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 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.



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, failed to fulfill the mandatory requirement in terms of Clause 27(ii) of the Bihar Targeted P.D.S. (Control) Order, 2016 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 03.07.2013 (Annexure-1) 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, licence of the petitioner shall be restored without delay until fresh orders are passed by the Respondent no. 2.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	09.08.2018
Transmission Date	N.A.

