

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8136 of 2018

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Ambika Ram @ Amerika Ram, S/o Devraj Mahara, Resident of Village-Bhawanipur, P.S.- Surajpur, Bettiah, District- West Champaran.

.... Petitioner

Versus

1. The State of Bihar through the Divisional Commissioner, Tirhut Range, Muzaffarpur.
2. The Divisional Commissioner, Tirhut Range, Muzaffarpur.
3. The District Magistrate, West Champaran, Bettiah.
4. The Sub Divisional Officer, Narkatiyaganj, West Champaran.
5. The District Supply Officer, Bettiah.
6. The Block Supply Officer, Sikta, Narkatiyaganj, West Champaran.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar Mishra, Advocate

For the Respondents : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-05-2018

Heard learned counsel for the petitioner as well as
learned counsel for the respondents.

2. The present writ application has been filed for the
following reliefs:-

“(i) For quashing the order contained in memo no. 297 dated 28.02.2016 passed by Respondent no. 4 by which the license of the petitioner has been cancelled.

(ii) For quashing the order dated 23.03.2018 passed in case CRM – 01/2016-17 passed by the Respondent District Magistrate by which the appeal has been dismissed.

(iii) For direction upon the respondent authorities to restore the license of the petitioner forthwith.

(iv) Any other order or orders as your Lordships may deem fit and proper in the facts and circumstances of the case be granted to the petitioner.”



3. It is submitted that the impugned order of cancellation of the petitioner's PDS licence has been passed without a show cause in that regard and the only other show cause 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 that no show cause for proposed cancellation of the licence was issued, 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, 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 appellate order dated 23.03.2018 passed in Case No. CRM-01/2016-17(Annexure-4) and the impugned order contained in Memo No. 297 dated 28.02.2016 (Annexure-3) are 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. 4.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.05.2018
Transmission Date	N.A.

