

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4408 of 2015

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Md. Akhlakh @ Md. Akhlakh Alam son of Md. Quasim, resident of Village -
Gamraho, P.S. - Mahisi, District - Saharsa.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Patna.
2. The District Magistrate-cum-Collector, Saharsa.
3. The Sub-Divisional Officer, Sadar, Saharsa.
4. The Block Supply Officer, Mahisi Block, District - Saharsa.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ashok Kumar Mishra, Advocate

For the Respondents : Mr. U.S.S. Singh, GP 1

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-08-2018

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

2. The present writ petition has been filed for quashing the
impugned order dated 29.08.2011 contained in memo no. 1121
(Annexure-2) passed by the Sub-Divisional Officer, Sadar Saharsa
whereby PDS shop licence of the petitioner has been cancelled without
affording opportunity to the petitioner to submit show cause

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 paragraph 7 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. The stand of the petitioner with regard to non-service of the show cause notice has not been controverted, as no counter affidavit has been filed till date.

5. In the above view of the matter, this Court is satisfied that non-service of the show cause notice on the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order contained in Memo No. 1121 dated 29.08.2011 (Annexure-2) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Sadar, Saharsa 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. Licence of the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 3.

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

B.T/Chandran

AFR/NAFR	NAFR
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