

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15480 of 2014

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Dharambir Kumar son of Late Bhuneshwar Prasad Gupta, Resident of village -
Lakhanpur, P.S. Punpun, District Patna

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Food and Civil Supply Department,
Old Secretariat, Patna
2. The Collector, Patna
3. The S.D.O., Masaurhi, Patna
4. The Block Supply Officer, Punpun, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand, Adv

For the Respondent/s : Mr. SC23- KUMAR PRIYA RANJAN

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 24-07-2018

Learned counsel for the petitioner assails the impugned order of cancellation of his PDS licence on two grounds; firstly that copy of the enquiry report was not made available to the petitioner prior to passing of the order of cancellation; and secondly that the show cause notice did not indicate the proposed 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 *Prasuani Khirodhar Primary Agriculture Co-operative Society Ltd. & Ors. vs. The State of Bihar and others*, 2015(3) PLJR 189.

2. Learned counsel for the respondents appears and has been heard.



3. Having heard learned counsel for the parties and on consideration of the materials on record, this Court is of the view that non-supply of the enquiry report to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated.

4. This Court is also 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 case against the proposed cancellation.

5. A perusal of the show cause notice in memo no. 231 dated 14.10.2011 (Annexure-3) discloses that the proposed cancellation of the license was not made known to the petitioner and thus the requirement of Clause 7(ii) aforesaid cannot be said to have been fulfilled. Accordingly, the show cause cannot be treated as a notice under Clause 7(ii), as also observed in Prasuni's case (*supra*).

6. The impugned order dated 04.11.2011 (Anenxure-5) and the appellate order dated 12.05.2014 (Annexure-6) are hereby quashed and the matter remanded to the Sub-Divisional Officer,



Masaurhi, District Patna for taking decision afresh in the matter after supplying a proper show cause along with a copy of the enquiry report to 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.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2018
Transmission Date	NA

