

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9070 of 2018

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Kusheshwar Mahto, son of Late Hajari Mahto, Resident of Village Wajidpur,
Post- Kothiya, P.S.- Kamtaul, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector and District Magistrate, Darbhanga, District- Darbhanga.
3. The Sub- Divisional Officer, Sadar, Darbhanga, District- Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv

For the Respondent/s : None

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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 present writ petition has been filed for quashing the order contained in memo no. 957 dated 02.12.2016 passed by the Sub-Divisional Officer, Sadar, Darbhanga and the appellate order dated 09.03.2018 passed by the Collector-cum-District Magistrate, Darbhanga in P.D.S. Case No. 149/2016 by which licence of the petitioner's Fair Price shop bearing no 01/97(old) and 29/07(new) has been cancelled and monthly allotment has been stopped; and further to restore the petitioner's licence.

3. Learned counsel for the petitioner makes a short submission to assail the impugned order on the ground that the second 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 para 24 of the writ petition that the impugned order of cancellation of



licence has been passed without serving second show cause notice to the petitioner, though the same had been relied upon in the impugned order.

4. None appears on behalf of the respondents when the matter is called.

5. In the above view of the matter, this Court is satisfied that non-service of the second show cause notice to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 02.12.2016 (Annexure-1) and the appellate order dated 09.03.2018 (Annexure-16) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Begusarai 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. Supplies to 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 second 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)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
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