

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15474 of 2018

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Gagandeo Prasad Yadav, S/o Late Ramlakhan Prasad Yadav, Resident of
Village-Mahese Farakpur, P.S.-Runnisaipur, Distirct-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food & Consumer protection
Deparment, Government of Bihar, Patna.
2. The Collector, Sitamarhi.
3. The Sub Divisional Officer, Sadar, Sitamarhi
4. The Block Supply Officer, Runisaipur, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr. S. Raza Ahmad, AAG-5

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT

Date : 24-08-2018

Heard learned counsel for the petitioner and the learned
counsel appearing on behalf of the State.

2. Petitioner challenges the order bearing Memo No. 409
dated 21.10.2016 (Annexure-3) issued by the Licensing Authority
i.e. Sub-Divisional Officer, Sadar, Sitamarhi, whereby his PDS
license has been cancelled. The petitioner further seeks quashing
of the order dated 22.06.2018 (Annexure-4), passed by the
Appellate Authority i.e. the Collector-cum-District Magistrate,
Sitamarhi, whereby his Supply Appeal Case No. 101 of 2016 has
been dismissed.

3. Learned counsel for the petitioner submits that the
show cause notice issued to the petitioner vide Annexure-1 dated
08.10.2016 granting only three days time to submit reply not



postulating action of cancellation of license of the petitioner, which is in violation of Clause 27(ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016. He further submits that no enquiry report was served on the petitioner of the enquiry conducted by the Block Supply Officer, Runisaidpur Block.

4. Since three days notice for filing show cause reply has been found to be highly insufficient as held in the case of ***Smt. Fulpati Devi versus The State of Bihar***, since reported in **2013 (1) PLJR 718** learned counsel for the petitioner submits that enquiry report not having been served and show cause notice did not propose cancellation of license, which was a mandatory requirement under Clause 27 (ii) of the Control Order, 2016. Hence, in view of the decision in the case of ***Parsauni Khirodhar Primary Agriculture Co-operative Society Ltd. & Ors. vs. The State of Bihar & Ors.*** since reported in **2015 (3) PLJR 189** the decision making process stands vitiated.

5. The order dated 21.10.2016 (Annexure-3), passed by the Licensing Authority, Respondent No. 3, Sub-Divisional Officer, Sadar, Sitamarhi and the order dated 22.06.2018 (Annexure-4) passed in Supply Appeal Case No. 101 of 2016 by the Collector-cum-District Magistrate, Sitamarhi are, accordingly, quashed. Matter is remanded back to the Respondent No. 3 to take



a fresh decision in the matter in accordance with law after granting reasonable opportunity of hearing to the petitioner. Supplies to the petitioner be restored forthwith.

6. The writ application is allowed as above.

(Nilu Agrawal, J)

Rajesh/Pragya

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.08.2018
Transmission Date	NA

