

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14891 of 2018

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Bhushan Baitha Son of Dhup Baitha Resident of Village Sinhpur P.S. Mainatand,
District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate Bettiah, West Champaran.
3. The Sub Divisional Officer, Narkatiaganj, West Champaran.
4. The District Supply Officer, West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra

For the Respondent/s : Mr. S. RAZA AHMAD- AAG5

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 23-08-2018

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

Petitioner challenges the order of cancellation of his PDS
licence being order dated 15.09.2016 by which his Licence No. 54 of
2007 has been cancelled by the Licensing Authority i.e. respondent
no. 3, the Sub-Divisional Officer, Narkatiyaganj, West Champaran.

Learned counsel for the petitioner challenges the
cancellation of his licence on the ground that show cause notice issued
i.e. Annexure-1 dated 30.08.2016 does not propose cancellation,
therefore, the impugned order of cancellation of his PDS licence is not
founded upon the show cause for proposed cancellation which vitiates
the decision making process as being violative of principles of natural



justice. He relies on the decision of this Court as held 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** stating therein that in the said case the proposed show cause for cancellation had to be issued under clause 7 (ii) of the Bihar Fair Price Shops Order, 2007 and in the present case under the Bihar Targeted Public Distribution System (Control) Order, 2016, clause 27 also at clause (ii) stipulates that no order of cancellation of a licence shall be made until the licensee has been given sufficient opportunity to state his case against the proposal of cancellation of his licence. In the said show cause notice, there was no proposal for cancellation of licence of the petitioner and hence, the cancellation order stands vitiated.

Learned counsel for the State, however, files his counter affidavit stating therein that there is a provision of appeal under the Control Order which the petitioner has not exhausted. However, since, the show cause notice dated 30.08.2016 is not founded upon a show cause for proposed cancellation, the impugned order contained in Annexure-3 dated 15.09.2016 passed by the Licensing Authority is accordingly quashed.

The writ application is allowed.

It is made clear that the respondent shall be at liberty to



take steps in the matter after issuance of fresh show cause notice in accordance with law, if so advised. In the meantime, supplies to the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 3, the Sub-Divisional Officer, Narkatiyaganj.

(Nilu Agrawal, J)

Devendra/Priyanka

AFR/NAFR	NAFR
CAV DATE	NA
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