IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19159 of 2017

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Ram Bilash Prasad, S/o Late Moti Sah, Resident of Village- Jhargama, P.S.- Islampur, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food & Consumer Protection Government of Bihar, Patna.
2. The Collector, Nalanda.
3. The Sub Divisional Officer, Hilsa, Nalanda.
4. The Block Supply Officer, Islampur, Nalanda.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Adv.
For the Respondent/s : Mr. S.Raza Ahmad –AAG-5
Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
Date: 23-07-2018

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

Petitioner seeks setting aside of the show cause notice contained in Memo No. 319 dated 17.06.2016 and also quashing of the order contained in Memo No. 360 dated 09.07.2016 passed by the learned S.D.O., Hilsa and further quashing the order contained in Memo No. 2201 dated 13.11.2017 in Supply Case No. 12 of 2016 by the learned Collector, Nalanda.

Petitioner challenges the impugned show cause notice dated 17.06.2016 as contained in Annexure-1 on the ground that the show cause notice did not propose cancellation of license which is a

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mandatory requirement under Clause 7 (ii) of the Bihar Fair Price Shop Order, 2007 and copy of the enquiry report was also not made available to him. Reliance has been placed in the case of Prasuani Khirodhar Primary Agriculture Co-operative Society Ltd. & Ors. Vs. The State of Bihar and others since reported in 2015 (3) PLJR 189 and the order passed by this Court in C.W.J.C. No. 11417 of 2016 dated 30.11.2017 in the case of Bacchan Singh Vs. The State of Bihar & Ors., stating therein that since the show cause notice was not as per requirement of Section 7 (ii) of the Bihar Fair Price Shop Order, 2007, no enquiry report was made available to the petitioner hence the order passed by the S.D.O., Hilsa and appellate order passed by the respondent no. 2, Collector, Nalanda as contained in Annexures-3 and 4 respectively be quashed.

Learned counsel for the State, however, relies on his counter affidavit stating therein that the show cause had all the contents and ingredients, the petitioner was fully aware about the contents and the petitioner has not availed the alternative remedy of Revision, instead has invoked the writ jurisdiction.

Considering that the matter has already been decided and is not res integra as held in **Prasuani Khirodhar Primary Agriculture Co-operative Society Ltd** (supra) and in **Bacchan Singh** (supra), the show cause notice dated 17.06.2016 is set aside

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and order passed by the S.D.O., Hilsa and the Collector, Nalanda dated 09.07.2016 and 13.11.2017 are quashed. The matter is remanded back to the Sub-Divisional Officer, Hilsa for taking decision afresh after supplying a copy of the enquiry report to 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.

This writ application is, accordingly, allowed.

(Nilu Agrawal, J)

Devendra/-

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

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