

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10288 of 2018

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Upendra Sah, son of late Jagat Lal Sah, r/o. vill. Sakraili, P.S. Dandkhora,
District Katihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food & Consumer Protection Department, Bihar, Patna.
2. The District Magistrate, Katihar
3. The District Supply Officer, Katihar
4. The Sub-Divisional Officer, Katihar
5. The Block Supply Officer, Dandkhora.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Sanjeev Kumar Singh, Adv
For the Respondent/s : Mr. ASHUTOSH RANJAN PANDEY -AAG15

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-07-2018

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. 452 dated 01.08.2009 passed by the Sub-Divisional Officer, Katihar by which licence of the petitioner's Fair Price shop bearing no. 2/92 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 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 6 of the writ petition that the impugned order of cancellation of licence has been passed without serving show cause notice to the petitioner, though the same had been relied upon in the impugned order.

4. Learned counsel for the respondents appears and has been



heard.

5. In the above view of the matter, this Court is satisfied that non-service of the 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 01.08.2009 (Annexure-2) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Katihar 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. 4.

6. It is made clear that in case the stand of the petitioner denying non-service of 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

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.07.2018
Transmission Date	NA

