

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10849 of 2018

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Lalan Dwedi @ Lalan Dwevedi, Son of Ram Narayan Dwedi, Resident of Village
+ P.S. - Patahi, District- East Champaran, Motihari.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Supply Department, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, District East Champaran (Motihari).
3. The Block Food and Supply Officer, Patahi, District- East Champaran (Motihari).
4. The Sub-Divisional Officer, Pakaridayal, District- East Champaran, (Motihari).
5. The Block Development Officer, Pakaridayal, District- East Champaran (Motihari).
6. The Marketing Officer, Patahi, P.S.- Patahi, Pakaridayal, District- East Champaran (Motihari).
7. The Circle Officer, Patahi, P.S.- Patahi, District- East Champaran (Motihari).

.... Respondents

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Appearance :

For the Petitioner : Mr. Sumeet Kumar Singh
Mr. Ajay Kumar Sinha,
Mr. Satyendra Pd. Singh, Advocates
For the Respondents : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 26-06-2018

Heard learned counsel for the petitioner as well as
learned counsel for the respondents.

2. The present writ petition has been filed for setting
aside the order dated 16.05.2018 bearing Memo No. 504 passed by the
S.D.O, Pakridayal by which the license of the petitioner bearing license
No. 74 of 2016 has been cancelled; to restore the licence bearing
license No. 74 of 2016; and for connected reliefs.



3. Learned counsel for the petitioner assails the impugned order of cancellation of his PDS licence on the ground that the show cause notice did not indicate the proposed action for cancellation of the licence which is a mandatory requirement in terms of Clause 7(ii) of the Bihar Fair Price Shop Order, 2007. Reliance is placed on a decision of this Court in *Prasauni Khirodhar Primary Agriculture Co-operative Society Ltd. & Ors Vs. The State of Bihar and others*, 2015(3) PLJR 189.

4. Learned counsel for the respondents appears and has been heard. He submits that remedy by way of appeal before the District Magistrate is available to the petitioner against the impugned order, which has not been availed of by the petitioner.

5. This Court is of the view that the bar of alternative remedy would not disentitle the petitioner for relief in a case of the present nature where the impugned order is founded upon a show cause notice which is not sustainable in law. Clause 7(ii) of the Bihar Fair Price Shop Order, 2007 clearly mandates that no order of cancellation shall be made under this clause unless the licensee has been given a reasonable opportunity for stating his or her case against the proposed cancellation.

6. The impugned order contained in Memo No. 504 dated 16.05.2018 (Annexure-6) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Pakridayal, District East Champaran



(respondent no. 4) for passing orders afresh after granting an opportunity of hearing to the petitioner in accordance with law. Supplies to the petitioner shall be restored without delay until fresh orders are passed by the Respondent no. 4.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	05.07.2018
Transmission Date	N.A.

