

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1037 of 2018

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Namuna Devi, Wife of Sri Sanjay Kumar Yadav, Resident of Village- Mauji
Harisingh, P.O.- Sital Rampur, P.S.- Bakhari, District- Begusarai.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer
Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Begusarai, District- Begusarai.
3. The Sub-Divisional Officer, Bakhari, District- Begusarai.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate.

For the Respondents : Mr. S. Raza Ahmad, AAG-5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 22-02-2018

The present writ petition has been filed for the following
reliefs:

*“(A) A Certiorari for quashing and setting aside the order
passed by the Sub-Divisional Officer, Bakhari vide dated
11.09.2017 in Case No. 01/17 whereby and whereunder
license of the petitioner’s Fair Price Shop has been cancelled
contained in Annexure-1.*

*(B) A mandamus commanding the respondents to restore
the petitioner’s licence as before and make allotment for the
petitioner’s shop.*

*(C) Any other relief or reliefs for which petitioner may be
found entitled in the facts and circumstances of the present
case may be granted to him.”*

2. 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 she was not given



any opportunity of being heard or adducing evidence in that regard. A specific stand has been taken in para 11 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.

3. Learned counsel for the respondents appears and has been heard.

4. 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 11.09.2017 (Annexure-1) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Bakhari, District- Begusarai 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. 3.

5. 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.

6. The writ petition stands allowed as above.

(Vikash Jain, J)



Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.02.2018
Transmission Date	N.A.

