

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10765 of 2018

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Dinesh Ram, Son of Bhulan Ram, Resident of Village DarooL, P.S.- Matiyariya,
District- West Champaran.

.... Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate Bettiah, West Champaran.
3. The Sub Divisional Officer, Narkatiyaganj, West Champaran.
4. The District Supply Officer, West Champaran.
5. The Block Supply Officer Gonoha P.S. Matiyariya, West Champaran.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar Mishra, Advocate.

For the Respondents : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 25-06-2018

As prayed, learned counsel for the petitioner is permitted to make correction in the description of the petitioner in the array of parties by substituting the name of the village 'Darod' with the corrected name of the village 'Darool', and the correct District 'West Champaran' in place of District 'Bhojpur' in course of the day.

2. The writ petition has been filed for the following reliefs -

(i) For issuance of an appropriate writ in the nature of Certiorari quashing the order dated 17.10.2015 by which the license no. 01/1998 of the petitioner under public distribution system has been cancelled by the respondent-Sub-Divisional Officer.

(ii) For issuance of an appropriate writ in the nature of



Certiorari quashing the order dated 22.09.2017 passed in appeal- CRM-55/2016-17 passed by the respondent District Magistrate whereby and whereunder the appeal preferred by the petitioner has been rejected..

(iii) And the petitioner further prays to restore the license of the petitioner forthwith."

3. It is submitted that the impugned order of cancellation of the petitioner's PDS licence has been passed without a show cause in that regard and the only other show cause issued was for the purpose of suspension of the petitioner's licence. It is therefore submitted that the impugned action has been taken without confronting the petitioner with regard to proposed cancellation of the licence. Reliance is placed on the decisions of this Court rendered in *Bhola Prasad Yadav vs. The State of Bihar & others, 2010(3) PLJR 825* and also in *Parsauni Khirodhar Primary Agriculture Co-operative Society Ltd. & others vs. The State of Bihar and others, 2015(3) PLJR 189*.

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner that no show cause for proposed cancellation of the licence was issued, has not been controverted as no counter affidavit has been filed till date.

5. Having heard the parties and on a consideration of the materials on record, this Court finds merit in the writ petition. It is not in dispute that the show cause was issued only with regard to suspension of the petitioner's licence and no further show cause was issued proposing cancellation of the PDS licence. The impugned order of cancellation cannot therefore be said to be founded upon a show cause for proposed cancellation which vitiates the decision making process as being violative of the principles of natural justice. Moreover, the show cause notice, in not indicating the proposed cancellation of



the licence, also failed to fulfill the mandatory requirement in terms of Clause 7(ii) of the Bihar Fair Price Shop Order, 2007 as held in *Parsauni Khirodhar Primary Agriculture Co-operative Society Ltd. & Ors. vs. The State of Bihar and others*, 2015 (3) PLJR 189.

6. The impugned order dated 17.10.2015 (Annexure-4) and the appellate order dated 22.09.2017 (Annexure-5) are accordingly quashed. The writ petition stands allowed.

7. It is made clear however that the respondents shall be at liberty to take fresh steps in the matter after issuance of fresh show cause notice and in accordance with law, if so advised.

8. In the meantime, supplies to the petitioner shall be restored without delay until fresh orders are passed by the Respondent no. 3.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.07.2018
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