

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18041 of 2017

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Vrijnandan Prasad, Son of Chandrika Prasad, Resident of Village- Karma,
Village Panchayat- Naudiha, Police Station- Fatehpur, District- Gaya.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub-Divisional Officer, Sadar Gaya, District- Gaya.
4. The District Supply Officer, Gaya.
5. The Block Supply Officer, Fatehpur, Dist- Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate

For the Respondents : Mr. S. Raza Ahmad -AAG5

Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-02-2018

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. 733 dated 10.11.2017 passed by the Sub-
Divisional Officer, Sadar Gaya by which licence of the petitioner's Fair
Price shop bearing no. 85/07(old)/60/16 (new) 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 never provided any opportunity of being heard or adducing evidence in that regard. A specific stand has been taken in paragraph 6 of the writ petition that the impugned order of cancellation of licence has been passed without serving show cause notice upon the petitioner.

4. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-service of show cause notice has not been controverted, as no counter affidavit has been filed till date.

5. In the above view of the matter, this Court is satisfied that non-service of show cause notice to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order contained in memo no. 733 dated 10.11.2017 passed by the Sub-Divisional Officer, Sadar Gaya (Annexure-1) is hereby quashed and the matter is remanded to him for taking decision afresh in the matter after issuing show cause notice 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.

6. It is made clear that in case the stand of the petitioner denying 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)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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