

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16818 of 2017

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Md. Mikail Ansari son of Ketku Ansari Resident of Village - Baliya Mahra, Police Station - Banka, District - Banka.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Food & Supply, Govt. of Bihar, Patna.
3. The Commissioner, Bhagalpur Division, Bhagalpur.
4. The District Magistrate, Banka.
5. The S.D.O., Banka.
6. The Block Supply Officer, Block - Banka, District - Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda

For the Respondent/s : Mr. ARBIND UJJAWAL - SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-02-2018

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. 440 dated 31.03.2016 passed by the Sub-Divisional Officer, Banka as also the appellate order dated 23.06.2017 in Supply Appeal No. 44 of 2016-17 passed by the District Magistrate, Banka, by which licence of the petitioner's Fair Price shop bearing no. 04/13 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 nor 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 10 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 31.03.2016 (Annexure-2) as also the appellate order dated 23.06.2017 (Annexure-1) are hereby quashed and the matter remanded to the Sub-Divisional Officer, Banka 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. 5.

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/BT

AFR/NAFR	NAFR
CAV DATE	NA
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