

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.739 of 2019

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Sakaldeep Singh S/o Raghunandan Singh, Resident of Ward No.-9,
Rajapakar, P.S.- Rajapakar, District- Vaishali

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Collector, Vaishali.
3. The Sub Divisional Officer, Mahua, Vaishali.
4. The Block Supply Officer, Rajapakar, Vaishali.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.N.K. Agrawal, Sr. Advocate Mr.Dhananjaya Nath Tiwari, Advocate
For the Respondent/s	:	Mr.U.P. Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 19-07-2019 Heard learned counsel for the petitioner and the State.

The petitioner in this case is aggrieved and dissatisfied by order contained in Memo No. 731 dated 24.11.2018 by which the Fair Price Shop license of the petitioner has been cancelled.

Learned counsel for the petitioner has raised a short point for purpose of setting aside of the impugned order. It is his contention that from a bare perusal of the show cause notice (Annexure '1') it would appear that the Sub-Divisional Officer, Mahua, Vaishali has used a pre-written proforma of the show cause notice by simply writing in one line that the petitioner has committed serious irregularities and then the petitioner has been



called upon to submit his explanation within three days, failing which appropriate order shall be passed in accordance with the provisions of the Bihar Targeted P.D.S. (Control) Order, 2016 (hereinafter referred to as the 'Control Order of 2016').

Learned counsel submits that at first instance the licensing authority provided only three days time to the petitioner to submit his explanation which is not a reasonable opportunity. Apart from that the show cause notice is not in terms of the requirement of Clause 27(ii) of the Control Order of 2016 as it does not propose cancellation of license. It is submitted that the Hon'ble Division Bench of this Court has after going through the aforesaid provisions of the Control Order in the case of **Ram Bachan Ram vs. The State of Bihar and Ors** reported in **2018 (4) PLJR 516** took a view that non compliance with the conditions mentioned therein would result in setting aside of the order of cancellation of the petitioner.

Learned counsel for the State is present and does not dispute the legal position.

In the given facts and circumstances of the case, where it is apparent from the show cause notice that a pre-written proforma has been used by the Sub-Divisional Officer, Mahua, Vaishali and only a vague allegation has been made



therein giving only three days time to the petitioner to submit his show cause and further it does not propose cancellation of license, this Court is of the considered opinion that following the judgment of the Hon'ble Division Bench of this Court in the case of **Ram Bachan Ram** (supra) the impugned order is liable to be set aside. It is set aside accordingly.

This writ application is allowed and the matter is remitted to respondent no. 3 for afresh consideration after giving an appropriate opportunity of hearing to the petitioner in accordance with law. Let the whole exercise be completed within a period of 90 days from the date of receipt/production of a copy of this order. As a result of setting aside of the impugned order the license of the petitioner shall stand restored.

(Rajeev Ranjan Prasad, J)

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