

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 24739 of 2018

=====

Baleshwar Mahto Son of Late Raghu Nandan Mahto resident of Village P.O. - Mohabbatpur, P.S. - Dewaria Kothi, Anchal - Paroo, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Government of Bihar, Patna.
2. The Sub- Divisional Magistrate.
3. Block Development Officer, Paroo.
4. Block Supply Officer, Paroo.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Shankar Kishore Shahi, Advocate
For the State : Mr. U. P. Singh, AC to SC 4

=====

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 27-05-2019

Heard learned counsel for the petitioner and learned AC to SC 4 for the State.

2. The petitioner has moved the Court for the following relief:

“That this is an application for issuance of a writ or writs, order or orders in the nature of certiorary for quashing the order vide memo no. 1188 supply dated 11.10.2018 issued under the signature of respondent no. 2. Sub-Divisional Magistrate, West, Muzaffarpur whereby and where under the licence of the P.D.S. shop of the petitioner has cancelled without supply of enquiry report. It is further prayed that to restore the P.D.S. shop of the petitioner.”



3. The petitioner being a dealer under the Public Distribution Scheme is aggrieved by the cancellation of his licence of the shop under order dated 11.10.2018. The ground for such cancellation is that on 13.09.2018, when the shop was inspected it was found to be closed and the beneficiaries had informed that no distribution had taken place for the month of August, 2018 and kerosene oil without being given was forcibly entered on the ration card and further that 36 quintals of rice and 24 quintals of wheat was found in the shop.

4. Learned counsel for the petitioner submitted that the allegation being with regard to non distribution of materials and forcibly making entry with regard to kerosene oil on the ration card is totally unsustainable and not a single name of any beneficiary has been mentioned therein.

5. It was submitted that under such circumstances, a bench of this Court in **Md. Najibul Haque Ansari vs. State of Bihar**, reported as **2013 (2) PLJR 637**, has set aside such cancellation order and remanded the matter to the concerned Sub-Divisional Officer.

6. Learned counsel for the State fairly submitted that in view of the aforesaid decision of the Court and the fact that no details with regard to the persons who had stated that the



provisions sanctioned for the month of August, 2018 was not given and that there was forcible entry showing distribution of kerosene oil on the ration card, the Court may remand the matter to the Licensing Authority i.e., the respondent no. 2, who has passed the impugned order, for fresh consideration.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the action taken against the petitioner cannot be sustained.

8. Without adverting to the merits of either side, on the short point of there being violation of the cardinal principles of natural justice, moreso as the petitioner has not had the opportunity to know as to who has complained against him, the Court finds that any action based on such allegations without disclosing as to who are the allegationists, cannot be sustained in the eyes of law.

9. Accordingly, the writ petition is allowed. The order impugned dated 11.10.2018 as contained in Memo No. 1188 by which the respondent no. 2 has cancelled the licence of the shop of the petitioner under the Public Distribution Scheme, is set aside. The matter is remanded to the respondent no. 2 for fresh consideration, in accordance with law, after providing details with



regard to the allegation of the petitioner not distributing the materials after receiving the same and also making forcible entry showing distribution of kerosene oil without doing the same in the ration card of the beneficiaries.

10. The petitioner is directed to appear before the respondent no. 2, along with a copy of this order, within two weeks from today. Thereafter, the respondent no. 2 shall provide materials with regard to the allegation against the petitioner, especially the statement of the beneficiaries and after obtaining reply of the petitioner, shall pass appropriate orders. The exercise be completed within one month from the petitioner appearing before the respondent no. 2.

(Ahsanuddin Amanullah, J.)

Anand Kr.

AFR/NAFR	
U	
T	

