

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3148 of 2019

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Ram Subhag Ram @ Subhag Ram son of Late Baccha Ram, Resident of
Village- Kumhaila, P.S.- Charpokhri, District- Bhojpur (Bihar).

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply
Department Govt. of Bihar, Patna.
2. The District Magistrate, Bhojpur.
3. The Sub-Divisional Officer, Piro, Bhojpur.
4. The Block Supply Officer, Charpokhari, Piro Bhojpur.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Rajendra Singh, Advocate
For the Respondent/s : Mr.Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 03-05-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner in the present case is seeking to challenge
the impugned order as contained in Memo No. 575 dated
29.10.2018 passed by the Sub-Divisional Officer, Piro, Bhojpur
as contained in Annexure '1' to the writ application by which
the license of the P.D.S. Shop of the petitioner has been
cancelled on the ground that the shop was closed on the
particular day when a surprise inspection was conducted.

Learned counsel for the petitioner submits that prior
to issuance of cancellation order as contained in Annexure '1',
the petitioner was not served with any show cause notice with



the proposed cancellation in accordance with Clause 27(ii) of the Bihar Targeted P.D.S. (Control) Order, 2016 (hereinafter referred to as 'the Control Order, 2016').

Learned counsel submits that on perusal of the show cause notice dated 11th September, 2018 as contained in Annexure '4' to the writ application, it would appear that by issuing the said show cause notice the petitioner was called upon to submit his explanation within a period of 3 days failing which further actions were liable to be taken against him. It is submitted that a Division Bench of this Court in the case of **Ram Bechan Ram Vs. The State of Bihar and Ors** reported in **2018 (4) PLJR 586** had occasion to consider the similar matter in which the show cause notice did not contain the proposal of cancellation but the license of the P.D.S. shop was cancelled. The Hon'ble Division Bench categorically held that under sub-clause (ii) of Order 27 of the Control Order, 2016 clearly stipulates that no order of cancellation of license shall be made until the licensee has been given sufficient opportunity to state his case against the proposal of cancellation. The Hon'ble Division Bench has, therefore, quashed the order of cancellation and directed restoration of license of the petitioner with liberty to the respondent to take action afresh in accordance with law, if



so advised.

It is the submission of the learned counsel for the petitioner that the cancellation of license on the ground of closure of the shop only on a day is not in accordance with law and it is fit to be interfered with.

Learned counsel for the State has opposed the writ application but what appears on the face of Annexure '4' to the writ application, learned counsel for the State could not contest that the show cause notice did not contain any proposal of cancellation of license. This being the position it is submitted that the writ application may be disposed off at this stage directing the respondent-licensing authority to consider the matter afresh.

In the given facts and circumstance of the case, finding that the show cause notice as contained in Annexure '4' is not in tune with the Order 27 Clause (ii) of the Control Order, 2016, following the judgment of the Hon'ble Division Bench in the case of **Ram Bachan Ram** (supra), this Court thinks it just and proper to quash the impugned order contained in Memo No. 575 dated 29.10.2018 as contained in Annexure '1' to the writ application. The impugned order is, accordingly, quashed. The license of the petitioner is restored. However, the Sub-



Divisional Officer, Piro, Bhojpur will be at liberty to proceed afresh against the petitioner in accordance with law, if so advised.

This writ application stands disposed off, accordingly.

(Rajeev Ranjan Prasad, J)

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