

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2407 of 2019

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Kishor Kumar, Gender-Male, Aged about 54 years, son of Ram Prasad, R/o Village- Gohari, P.S. Chanan, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Commissioner, Munger Division Munger.
3. The Collector, Lakhisarai, District- Lakhisarai.
4. The Sub-Divisional Officer, Lakhisarai, District-Lakhisai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Kumar Labh
For the Respondent/s : Mr.Arvind Ujjwal (Sc4)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 26-04-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner is aggrieved by and dissatisfied with the order dated 30.11.2018 passed in Supply Revision No.24 of 2017 by which the Revisional Authority has refused to interfere with the order passed by the Appellate Authority in Miscellaneous (Supply) Appeal Case No.31/2013-14 affirming the order dated 07.08.2013 passed by the Sub-Divisional Officer, Lakhisarai by which the licence of the petitioner's Fair Price Shop bearing No.04/98 has been cancelled.

For the purpose of reliefs prayed in the writ application, learned counsel for the petitioner has raised a short



point for consideration. It is his submission that during the relevant time, action for cancellation was taken in terms of the provisions as contained in Clause 7 (IV) of the Public Distribution System (Control) Order, 2001, the petitioner should have been given a reasonable opportunity stating his case against the proposed cancellation. It is submitted that on perusal of the show cause notice as contained in Annexure '2' to the writ application, it would appear that there was no proposal for cancellation of the licence of the petitioner. It is submitted that vide Annexure '2' the petitioner was only called upon to show cause with reference to the allegations as to violation of the terms and conditions of the licence and had been called upon to appear with certain registers within 24 hours. It is submitted that the word 'proposed cancellation' came to be considered recently by a Division Bench Judgment of this Court in the case of **Ram Bachan Ram vs. The State of Bihar & Ors.** Reported in **2018 (4) PLJR 516** and the same has been followed by this Bench in a number of decisions in the case of similar nature. It has been held that if the show cause notice was not issued proposing cancellation of licence, any action towards cancellation of licence would be liable to be held bad in law for violation of the principles of natural justice and non-compliance of the statutory



provision. It is submitted that the authorities below have failed to appreciate the submissions of the petitioner in this regard.

Learned counsel for the State has not contested the issue, so far as, it relates to the interpretation of the relevant Clauses showing that the petitioner was entitled for a reasonable opportunity to represent his case against a proposed cancellation. Annexure '2' to the writ application shows that the show cause notice was issued only calling upon the petitioner to submit his reply and be present with certain relevant registers. It is not denied by the respondent State that Annexure '2' to the writ application is the only show cause notice issued to the petitioner. Learned counsel for the State has submitted that in the given facts and circumstances of the case, the Sub-Divisional Officer, Lakhisarai may be directed to consider the whole matter afresh and pass a fresh order after an independent exercise.

Having heard learned counsel for the parties and on perusal of the records, this Court is satisfied that in fact, Annexure '2' to the writ application nowhere proposes a cancellation action against the petitioner. If no cancellation was proposed in terms of Rule 7 (IV) of the Control Order, 2001, it would amount to a violation of the mandatory provision of the



Control Order, 2001 which is in-consonance with the principles of natural justice.

In the opinion of this Court, following the Judgment of the Hon'ble Division Bench of this Court in the case of **Ram Bachan Ram** (supra), it would be a fit case to quash the impugned orders and remit the matter to the office of the Sub-Divisional Officer, Lakhisarai who will take up an independent exercise giving an opportunity of hearing to the petitioner and shall pass a reasoned order within a period of three months from the date of receipt/production of a copy of this order. This Court orders accordingly.

The writ application is allowed to the extent indicated hereinabove.

In the meantime, the licence of the petitioner shall be restored and consequential benefits shall follow.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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