

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2129 of 2019

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Hiralal Singh, aged about 78 years, Gender – Male, son of Shyamlal Singh
R/o Village- Ghoghia, Panchayat- Gangoli, P.O. and P.S. Masarakh, District-
Saran at Chapra.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary Food and Civil Supply
Government of Bihar, Patna.
2. The Principal Secretary, Food and Civil Supply, Bihar, Patna
3. The Divisional Commissioner, Saran at Chapra.
4. The District Magistrate, Saran at Chapra.
5. The Sub Divisional Officer, Madhaura, Saran at Chapra.
6. Block Supply Officer, Masarakh, District- Saran at Chapra

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Rananjay Kumar, Advocate
For the Respondent/s : Mr.S.Raza Ahmad (AAG5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 22-07-2019 Learned counsel for the petitioner undertakes that

he would withdraw the revision application being Revision

Case No. 238/2018 pending before the Divisional

Commissioner, Saran Division, Chapra.

Learned counsel submits that this writ application

questions the order of cancellation of the fair price shop

license of the petitioner on the ground *inter alia* that the

petitioner was not served with a show cause notice

proposing cancellation of his license. It is submitted that in

terms of Rule 27(ii) of the Bihar Targeted P.D.S. (Control)



Order, 2017 (hereinafter referred to as the “Control Order, 2016”), if the show cause notice did not contain a proposal for cancellation of license, the subsequent action of cancellation would be liable to be held bad in law. He has relied upon a judgment of the Hon’ble Division Bench of this court in the case of **Ram Bachan Ram Vs. The State of Bihar and Ors** reported in **2018(4) PLJR 516**.

Learned counsel further submits that petitioner had submitted an explanation on 06.10.2017 vide Annexure ‘4’ to the writ application, but that was not considered while passing the impugned order dated 09.10.2014. This aspect of the matter has not been looked into by the appellate authority who has dismissed the appeal by reiterating the order passed by the Sub-Divisional Officer, Madhaura, Saran.

Learned counsel for the State has, after going through the show cause notice as contained in Annexure ‘2’ to the writ application, submitted that a perusal thereof shows that there is no proposal for cancellation of license and therefore following the judgment of the Hon’ble Division of this court, the court may remit the matter to the



Sub-Divisional Officer, Madhaura, Saran for a fresh consideration.

In the given facts and circumstances of the case and taking note of the submission on behalf of the parties, this court finds that the impugned order as contained in Annexure '5' and '6' to the writ application are liable to be set aside on the solitary ground of non-observance of the provisions as contained in Rule 27(ii) of the Control Order, 2016. Both the orders are accordingly set aside. The matter is remitted to the Sub-Divisional Officer, Madhaura, Saran for issuance of fresh show cause notice in accordance with Rule 27(ii) of the Control Order, 2016 together with all such materials which are against the petitioner within a period of 15 days from the date of receipt/production of a copy of this order. Whereupon the petitioner shall file his explanation within next 15 days together with all such materials on which he wants to rely upon. On receipt of the explanation of the petitioner within the aforesaid period, the Sub-Divisional Officer, Madhaura, Saran shall proceed to enquire into the matter and shall pass a reasoned order thereon within a period of 60 days from the date of receipt



of the explanation. If no explanation is submitted by the petitioner within the prescribed period the Sub-Divisional Officer, Madhaura, Saran shall proceed with the matter without waiting further and shall pass the order in accordance with law as stated above.

The writ application stands disposed of accordingly.

After the petitioner withdraws the revision application and submits the proof thereof before the Sub-Divisional Officer, Madhaura, Saran, his license of the fair price shop shall stand restored.

(Rajeev Ranjan Prasad, J)

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