

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1503 of 2019

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Rajendra Prasad Yadav, aged about 55 years (Male), S/o Sri Nathuni Yadav,
resident of Village-Bhutha, P.S.-Loukahi, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Collector, Madhubani
3. The Sub Divisional Officer, Phulparas Madhubani
4. The Block Supply Officer, Loukahi, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr.Adv. Mr.Dhananjaya Nath Tiwari, Adv.
For the Respondent/s	:	Mr. Arvind Ujjwal (SC-IV) Mr. Shashi Shekhar Pd. Sinha, AC to SC-IV

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 30-01-2019 Heard learned senior counsel representing the
petitioner and learned counsel representing the State.

Petitioner, in the present case, is challenging the order dated 20.11.2018 passed by the Sub-Divisional Officer, Phulparas by which the Public Distribution Shop licence of the petitioner being Licence No.71/2007 has been cancelled.

Learned senior counsel representing the petitioner submits that even though a provision for statutory appeal is there under the Bihar Targeted Public Distribution System (Control) Order, 2016, but, in the present case, the petitioner has moved this Court under Article 226 of the Constitution of India because the order impugned is wholly without jurisdiction and



is completely perverted.

Learned senior counsel has taken to this Court through the order contained in memo no.407 dated 20.11.2018 passed by the Sub-Divisional Officer from which this Court finds that after issuance of the show cause, as contained in Annexure-1 to the writ application, when the petitioner submitted his reply, vide Annexure-2, the same was sent to the Assistant District Supply Officer, Phulparas and his comments were invited thereon. In his comment, the Assistant District Supply Officer, Phulparas once again reiterated his views and then taking those views as sacrosanct, the Sub-Divisional Officer has passed the order of cancellation of licence of the petitioner.

Learned counsel for the State is not in a position to submit anything more than what is stated in the impugned order as contained in Annexure-5 to the writ application.

This Court is satisfied from the reading of the impugned order, as contained in Annexure-5 to the writ application, that the Sub-Divisional Officer, Phulparas has not given an independent consideration to the case of the petitioner prior to issuance of the impugned order.

In the given facts and circumstances of the case, the



impugned order, as contained in memo no.407 dated 20.11.2018, issued by the Sub-Divisional Officer, Phulparas, is set aside. The Sub-Divisional Officer, Phulparas (respondent no.3) shall now consider the reply of the petitioner afresh and after applying his independent and judicious mind he may pass a fresh order thereon. In case, the petitioner has anything more to submit, he can do that by submitting his written submissions within a period of fifteen days from today.

The whole exercise will be completed by the Sub-Divisional Officer, Phulparas (respondent no.3) within a period of 90 days from the date of receipt/production of a copy of this order.

The writ application stands allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

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