

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3214 of 2019

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Visheshwar Ray Son of Late Shivrath Ray, Resident of Village- Sasana,
Police Station- Janta Bazar, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Saran at Chapra.
3. The District Magistrate, Saran at Chapra.
4. The Sub- Divisional Officer (Supply Division), Chapra Sadar, Saran at Chapra.
5. The Block Supply Officer, Baniyapur, Saran at Chapra.
6. The Block Supply Officer, Lahladpur, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s : Mr. AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 04-07-2019 Petitioner in the present case is aggrieved by and dissatisfied with the order as contained in Memo No. 2312 dated 16.11.2018 passed by Sub-Divisional Officer (Supply Branch), Sadar Chapra (Annexure 4) by which the P.D.S. Shop license of the petitioner has been cancelled with immediate effect on certain allegations.

On the last date when the matter was taken up, learned counsel for the petitioner had shown to this Court the show cause notice dated 13.10.2018 available at Annexure '1' to the writ application and it was his submission that in the show cause there was no proposal to cancel the license, therefore, in



terms of the requirement of Rule 27(ii) of the Bihar Targeted P.D.S. (Control) Order, 2016 (hereinafter referred to as 'the Control Order of 2016'), the impugned order by which the license has been cancelled is liable to be held bad in law. Learned counsel had also 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**.

Since the Court was informed on the last date that the petitioner had also filed one statutory appeal before the District Magistrate, Chapra being Supply Appeal No. 53 of 2018 but the same was not being heard, finding that the petitioner had been able to make out a case for interference under Article 226 of the Constitution of India, this Court had called upon learned counsel for the petitioner to take appropriate steps for withdrawal of the appeal in order to enable the Court to proceed with the writ application.

By filing a supplementary affidavit now the petitioner has brought on record an application filed by him before the Collector, Chapra, Saran for withdrawal of the appeal. It is stated that the petitioner has been given to understand that formal order permitting withdrawal of appeal be passed by



the Collector, Saran at the earliest opportunity.

Learned counsel for the State is present, however, on the face of the judgment of the Hon'ble Division Bench of this Court in the case of **Ram Bachan Ram** (supra) he is unable to show that the show cause dated 13.10.2018 is in tune with the requirement of Rule 27(ii) of the Control Order, 2016.

In the given facts and circumstance of the case after hearing learned counsel for the petitioner and the State, this Court is of the considered opinion that the impugned order is liable to be set aside because prior to passing of the impugned order a show cause with proposed action of cancellation was not served upon the petitioner. Rule 27(ii) of the Control Order of 2016 came for consideration before the Hon'ble Division Bench of this Court in the case of **Ram Bachan Ram** (supra) and has been held to be mandatory.

As a result, the impugned order as contained in Memo No. 2312 dated 16.11.2018 as well as the show cause notice dated 31.10.2018, as contained in Annexure-1, are hereby set aside. By virtue of setting aside of the impugned order, the license of the petitioner bearing no.11/2016 shall stand restored. However, this will not come in the way of the Sub-Divisional Officer, Sadar Chapra in proceeding afresh and in accordance



with law.

The writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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