

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3905 of 2019

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Pawa Pacs through its chairman, namely Kameshwar Prasad Sharma S/o Late
Jethu Singh, Resident of Village-Pawa, P.S.-Deepnagar, Distt.-Nalanda.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer
Protection Department, Bihar, Patna
2. The Collector Nalanda
3. The Sub Divisional Officer Biharsharif, Nalanda
4. The Block Supply Officer Biharsharif, Nalanda

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.N.K. Agrawal, Sr. Advocate

Mr.D.N. Tiwari, 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

2 09-07-2019 Heard learned Senior Counsel for the petitioner and

learned counsel representing the State.

Petitioner in the present case is aggrieved by the order
contained in Memo No. 34 dated 08.01.2019 as contained in
Annexure '8' to the writ application by which the P.D.S. shop
license of the PACS in question has been cancelled by the Sub-
Divisional Officer, Biharsharif, Nalanda.

Learned Senior Counsel submits that earlier when the
Sub-Divisional Officer, Biharsharif, Nalanda had cancelled the
license of the petitioner vide his order dated 04.09.2018, the
petitioner had moved this Court in C.W.J.C. No. 19495 of 2018



which was allowed vide judgment dated 01.10.2018 (Annexure '4') on the ground that the show cause notice did not contain the proposal for cancellation of license as envisaged under Rule 27(ii) of the Bihar Targeted P.D.S. (Control), Order, 2016 (hereinafter referred to as 'the Control Order, 2016').

Learned Senior Counsel submits that even in the fresh round the Sub-Divisional Officer, Bihar Sharif, Nalanda has committed the same mistake by issuing a show cause notice without proposing the cancellation of license, Annexure '6' is the said show cause notice dated 27.10.2018. It is further submitted that in fact the Sub-Divisional Officer has reiterated in his fresh order that there is no need to modify the earlier order dated 04.09.2018 and the same is being kept intact which is wholly contemptuous and against the judgment of this Court passed in C.W.J.C. No. 19495 of 2018.

Learned counsel for the State is present. However, learned counsel admits that the show cause notice as contained in Annexure '6' to the writ application is not in accordance with the Rule 27(ii) of the Control Order, 2016 as also in tune with the Hon'ble Division Bench judgment of this Court in the case of **Ram Bachan Ram Vs. The State of Bihar and others** reported in **2018 (4) PLJR 516**.



Having heard learned counsel for the petitioner and the State, this Court has no hesitation in recording that the Sub-Divisional Officer, Biharsharif, Nalanda has, in fact, not acted in accordance with law despite opportunity granted to him vide judgment dated 01.01.2018 passed in C.W.J.C. No. 19495 of 2018. He has neither issued a fresh show cause notice proposing cancellation nor has complied with the judgment of the Court rather he has made a totally wrong statement in the impugned order that the earlier order dated 04.09.2018 need not be modified. It is expected that the Sub-Divisional Officer, Biharsharif, Nalanda will follow the minimum standard of knowledge with regard to the law. Once an order of the Sub-Divisional Officer was set aside by this Court, he could not have reiterated that the said order need no modification. If considered strictly perhaps it may give rise to contempt proceeding against him. He will take care in future. The impugned order is hereby set aside once again. The matter is remitted to the Sub-Divisional Officer, Biharsharif, Nalanda to proceed afresh in accordance with law. Since the impugned order has been set aside, license of the petitioner stands restored.

Let the whole exercise be completed within a period of 90 days from the date of receipt/production of a copy



of this order.

The writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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