

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3783 of 2019

=====

Nagendra Kumar Singh @ Nagendra Singh Son of late Ram Pravesh Singh,
Resident of Village and P.O. Lejuar, P.S. Daudpur, District- Saran at Chapra.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Consumer and Food Protection Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Saran Division, Chapra.
3. The District Magistrate, Saran at Chapra.
4. The Sub-Divisional Officer, Sadar Chapra, District- Saran at Chapra.

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	Mr.S.B.K. Mangalam, Advocate Mr.Ravi Ranjan, Advocate Mr.Awnish Kumar, Advocate Mr.Kislay Raj, Advocate
For the Respondent/s	:	Mr.Arvind Ujjwal (SC-4)

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 05-07-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner in the present case is aggrieved by and dissatisfied with the order as contained in Memo No. 245 dated 14.01.2019 passed by the Sub-Divisional Officer, Sadar, Chapra by which the P.D.S. Shop license of the petitioner has been cancelled with immediate effect.

Learned counsel for the petitioner submits that this writ application may be allowed on the solitary ground that prior to passing of the impugned order the Sub-Divisional Officer has not complied with the mandatory provision of Rule 27(ii) of the



Bihar Targeted P.D.S. (Control) Order, 2016 (hereinafter referred to as 'the Control Order, 2016'). It is submitted that no proposal for cancellation of license was served upon the petitioner and as such the impugned order is fit to be set aside by also taking note of the judgment of Hon'ble Division Bench of this Court in the case of **Ram Bachan Ram Vs. The State of Bihar and others** reported in **2018 (4) PLJR 516**.

Learned counsel for the State is present, however, in view of the apparent non-compliance with the provisions of Rule 27(ii) of the Control Order, 2016 and the judgment of the Hon'ble Division Bench of this Court, learned counsel submits that the matter may be remanded to the Sub-Divisional Officer, Sadar, Chapara for a fresh consideration.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that the petitioner was served with a show cause notice as contained in Memo No. 2491 dated 12.12.2018 (Annexure 'P-3'). In the said show cause notice, however, there was no proposal for cancellation of the P.D.S. Shop license of the petitioner. Under Rule 27(ii) of the Control Order, 2016 it is mandatory to serve show cause notice with a proposal for cancellation and if it has not been done in view of the judgment of the Hon'ble Division Bench in the case



of **Ram Bachan Ram** (supra), this Court would quash the impugned order dated 14.01.2019 as contained in Annexure 'P-5' to the writ application. Impugned order is quashed accordingly.

The writ application is allowed. The license of the petitioner is restored and matter is remitted to the office of Sub-Divisional Officer, Sadar, Chapra to consider the case of the petitioner afresh and if so advised, he may proceed further by issuing a show cause notice in accordance with law.

(Rajeev Ranjan Prasad, J)

ved/vats

U			
---	--	--	--

