

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6287 of 2019

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Naulakh Prasad, aged about 52 years, male, son of Late Nandji Prasad Resident of Sihauta Bazar, P.S. Maharajganj, District - Siwan, Presently P.D.S. dealer Village-Gaur, Gram Panchayat Balia, Block Maharajganj, District-Siwan

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supplies Department, Bihar, Patna
2. District Magistrate, Siwan
3. Sub. Divisional Officer, Maharajganj, District - Siwan
4. The Block Supply Officer, Maharajganj, District - Siwan

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. N.K. Agrawal, Sr. Advocate
		Mr. Ramadhar Shekhar, Advocate
For the Respondents	:	Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date : 13-06-2019

I.A. No.01 of 2019

The interlocutory application has been filed with the prayer for amendment of the relevant portion of the prayer in the writ petition by adding the following prayer –

“1(d) An appropriate writ, order/direction particularly in the nature of writ of Certiorari, quashing the order dated 30.04.2019 issued by S.D.O., Maharajganj as contained in Annexure: 12 to this petition by which the licence of P.D.S. of petitioner has been cancelled with immediate effect and further directed to lodge the F.I.R. against the petitioner.

1(e) During pendency of the aforesaid writ petition, the order of the S.D.O. contained in Annexure: 12 may kindly be stayed, till final disposal of the writ petition.”

2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated as forming part



of the writ petition.

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3. This matter has been heard and is being taken up for final disposal at the admission stage itself with consent of the parties.

4. The present writ application has been filed for the following reliefs as formulated by the petitioner :

“(a) An appropriate writ(s), order(s), or direction in the nature of certiorari for quashing the order as contained in memo no. 432 dated 01.07.2018 (Annexure: 8 to this petition), issued by the Sub Divisional Officer, Maharajganj by which petitioner was directed to sale the seized foodgrains on market rate and deposit the amount in government exchequer within a period of one week, otherwise illegal action will be taken against the petitioner, be issued.

(b) An appropriate writ, order or direction in the nature of certiorari for quashing the order of Block Supply Officer, Maharanganj, contained in memo no. 50 dated 03.05.2017 and letter no. 164 dated 27.06.18 (Annexure: 4 & 7 respectively) directing the petitioner to sale the seized articles in open market and deposit the amount within one week, be issued.

(c) To any other relief/reliefs to which the petitioner is entitled to in the facts and circumstances ODF the case, be issued.”

5. Mr. N.K. Agrawal, learned senior counsel appearing on behalf of the petitioner confines the challenge to the order of cancellation of the petitioner's PDS licence as being wholly illegal



for want of notice of proposed cancellation of licence as mandatorily required under Clause 27(ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016, which provision reads as follows –

“27 (i) xxx xxx xxx
(ii) *No order of cancellation of a license shall be made until the licensee has been given sufficient opportunity to state his case against the proposal of cancellation of his license.*
(iii) xxx xxx xxx”

6. Learned counsel for the respondents appears and has been heard. No counter affidavit has been filed till date.

7. In the above view of the matter, the writ petition stands allowed and the impugned order of cancellation contained memo No. 182 dated 30.04.2019 passed by the Sub-Divisional Officer, Maharajganj (Annexure-12 to the aforesaid I.A.) is hereby quashed. Supplies to the petitioner shall be restored without delay.

8. It is made clear that in case the stand of the petitioner for non-service of notice with regard to proposed cancellation of licence is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

(Vikash Jain, J)

BT/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19.06.2019
Transmission Date	N.A.

