

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4446 of 2019**

=====

Nand Kishore Rai S/o Budhan Rai Resident of Ward No. 2, Village- Munni Baingari, Panchayat- Munni Bangari, P.S. Piar, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Collector Muzaffarpur.
3. The Sub Divisional Officer (East) Muzaffarpur.
4. The Block Supply Officer, Bandara Muzaffarpur.

... .. Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari  
For the Respondent/s : Mr.Alok Ranjan, AC to AAG-5

=====

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

2      15-07-2019                      Heard learned counsel for the petitioner and the State.

A counter affidavit has been filed today on behalf of the State.

Learned counsel for the petitioner submits that the impugned order of cancellation of PDS shop licence of the petitioner has been passed without giving an appropriate opportunity to show cause to the petitioner. It is submitted that initially when the show cause notice was issued to the petitioner on 05.01.2019 (Annexure-1), the only allegation against him was that in course of inspection of the shop on 27.12.2018 it was found closed and therefore the shop could not be inspected.



It is further submitted that in the show cause notice the petitioner was called upon to produce the various registers and when those registers were produced, the licensing authority noticed certain irregularities in the matter of maintenance of those records, he took note of the irregularities in the impugned order and made them ground for cancellation of licence but without giving any opportunity to show cause as regards those allegations.

Learned counsel for the petitioner has relied upon a judgment of the learned coordinate Bench of this Court dated 11.05.2017 passed in CWJC No.17863 of 2015 to submit that in similar circumstance the cancellation of licence for the alleged closure of one day, this Court held the order of cancellation bad in law. Further it has been submitted that the learned coordinate Bench had also considered that when fresh allegations had come against the petitioner a fresh opportunity to show cause may be granted.

Learned counsel for the State is present and submits that although the shop of the petitioner was again found closed on 03.01.2019, but it is true that this allegation is not there in the show cause notice. Learned counsel further submits that so far as other allegations which came to be noticed by the licensing



authority in course of consideration of show cause are concerned, no opportunity of show cause was given to the petitioner and therefore the matter may be remitted to the S.D.O./licensing authority for fresh consideration.

In the given facts and circumstances of the case finding that on both count the impugned order cannot sustain the test of law, it is hereby set aside. The matter is remitted to the S.D.O., East Muzaffarpur for consideration by issuing fresh show cause notice if so advised and pass a reasoned order after giving an opportunity of hearing. Let the whole exercise be completed within a period of 90 days from the date of receipt/production of a copy of this order.

In the meantime, the licence of the petitioner shall stand restored.

This writ application stands disposed off accordingly.

**(Rajeev Ranjan Prasad, J)**

arvind/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

