

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5529 of 2019

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Kashi Kant Jha, Son of Faguni Jha, Resident of Village-Padma, P.S.-Ladania,
District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Bihar, Patna.
2. The Divisional Commissioner, Darbhanga Division Darbhanga
3. The District Magistrate, Madhubani
4. The Sub Divisional Officer, Jaynagar, District-Madhubani
5. The District Supply Officer, Madhubani
6. The Block Supply Officer, Ladania District-Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mrs.Namrata Mishra, Adv.
For the Respondent/s : Mr.U.P.Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 08-11-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner, in the present case, is seeking quashing of
the order as contained in memo no.41 dated 31.01.2019 passed
by the Sub-Divisional Officer, Jaynagar by which the fair price
shop licence of the petitioner bearing no.09/2016 has been
cancelled.

Learned counsel for the petitioner submits that the
writ application is fit to be allowed on various grounds. The first
ground is that in the show cause notice issued to the petitioner
there was no proposal to cancel the licence, therefore the



mandatory provisions of sub-rule (ii) of Rule 27 of the Bihar Targeted PDS (Control) Order, 2016 has not been followed. Secondly, it would appear from the impugned order as contained in Annexure-7 to the writ application that the Sub-Divisional Officer, Jaynagar has not applied his independent mind and has solely proceeded to pass the impugned order on the basis of the report received from the Block Supply Officer, Ladania. Neither the copy of the said report was made available to the petitioner nor the show cause of the petitioner has been considered. Learned counsel has relied upon two orders of this Court in similar circumstances passed in CWJC No. 1503 of 2019 (Rajendra Prasad Yadav Vs. The State of Bihar and others) and in CWJC No.5067 of 2019 (Nageshwar Singh Vs. The State of Bihar and others). In these two orders, this Court has quashed the impugned order of cancellation of licence on the ground that the licensing authority had acted solely on the basis of the recommendation of the Block Supply Officer.

Learned counsel for the State submits that in view of the issues raised in the writ application, instead of inviting a counter affidavit, it would only be just and proper to remit the matter to the Sub-Divisional Officer, Jaynagar for a fresh consideration.



In the given facts and circumstances of the case where this Court finds that the writ application is fit to be allowed on both grounds, following the Hon'ble Division Bench judgment of this Court in the case of Ram Bachan Ram Vs. The State of Bihar & Ors. reported in 2018 (4) PLJR 516 and the order passed by this Court in the aforesaid two cases, the impugned order as contained in Annexure-7 to the writ application is hereby set aside. The matter is remitted to the Sub-Divisional Officer, Jaynagar for a fresh consideration which should be in form of an independent exercise of mind on his part without being influenced by any other fact. Let the entire exercise be completed within a period of four months from the date of receipt/production of a copy of this order.

In the meantime, the licence and the supplies of the petitioner shall be restored.

(Rajeev Ranjan Prasad, J)

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