

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7456 of 2019

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Baleshwar Prasad S/o Late Nathuni Prasad Resident of Jaganpura, P.S.-
Masaurhi, District-Patna

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.N.K. Agrawal, Sr.Adv.
		Mr. P.C. Agrawal, 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 22-07-2019 Heard learned senior counsel for the petitioner and
the State.

Petitioner in this case is aggrieved by and dissatisfied with the order as contained in memo no.57 dated 23.01.2019 (Annexure-3) by which the Sub-Divisional Officer, Masaurhi has cancelled the fair price shop licence of the petitioner and has directed for attachment of his shop with a nearest licensee.

For the purpose of setting aside of the impugned order, learned senior counsel has referred to the show cause notice (Annexure-1) to submit that the said show cause notice did not contain any stipulation with a proposal to cancel the licence. It is submitted that in terms of Rule 27(ii) of the Bihar



Targeted PDS (Control) Order, 2016 before cancellation of the licence it is a must to serve a show cause notice proposing such cancellation. This is the view which has been taken by Hon'ble Division Bench of this Court in the case of Ram Bachan Ram Vs. The State of Bihar & Ors. reported in 2018(4) PLJR 516.

Apart from that the learned senior counsel has submitted that with the show cause notice petitioner must get a copy of the complaint and all such materials on which the licensing authority or the Block Supply Officer would raise their conclusion.

Learned counsel for the State submits that in the given facts and circumstances of the case where it is evident from the show cause notice as contained in Annexure-1 to the writ application that no proposal for cancellation of licence was given to the petitioner, the matter may be remitted to the Sub-Divisional Officer, Masaurhi for a fresh consideration.

Having heard learned senior counsel for the petitioner and learned counsel for the State as also in the given facts and circumstances of the case, this Court finds that in Annexure-1 which is the show cause notice there was no proposal to cancel the licence, if it is so then following the judgment of the Hon'ble Division Bench of this Court in the case of Ram



Bachan Ram (supra) this Court would have no hesitation in setting aside the impugned order. The impugned order dated 23.01.2019 as contained in Annexure-3 is hereby set aside. The matter is remitted back to the Sub-Divisional Officer, Masaurhi for a fresh consideration after providing the show cause notice in accordance with law and all such materials on which he would like to rely upon. Let the whole consideration be given and a decision in this regard to be taken within a period of 90 days from the date of receipt/production of a copy of this order.

By virtue of the setting aside of the impugned order, the licence of the petitioner shall stand restored.

This writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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