

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10067 of 2019

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Gayanand Manjhi, aged about 36 years (Male), S/o Gudani Manjhi Resident of
Village-Uchauli, P.S.-Khizarsarai, District-Gaya

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Food and Civil Supply Department,
Government of Bihar, Patna
2. The District Magistrate Gaya
3. The Sub-Divisional Officer Gaya

... .. Respondents

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Appearance :

For the Petitioner : Mr.Anujit Sinha, Advocate

For the Respondents : Mr.Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 10-06-2019

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

2. The present writ petition has been filed for setting aside
the order dated 16.01.2018 passed by the Sub-Divisional Officer,
Neemchak Bathani, Gaya by which licence of the petitioner's Fair
Price shop bearing no. 53/2008 has been proposed to be cancelled.

3. Learned counsel for the petitioner assails the impugned
order of cancellation of his PDS licence on the ground that the show
cause notice did not indicate the proposed action for cancellation of
the licence which is a mandatory requirement in terms of Clause
27(ii) of the Bihar Targeted Public Distribution System (Control)
Order, 2016. Reliance is placed on a decision of this Court in
Prasauni Khirodhar Primary Agriculture Co-operative Society Ltd.
& Ors Vs. The State of Bihar and others, 2015(3) PLJR 189.

4. Learned counsel for the respondents appears and has



been heard. He submits that remedy by way of appeal before the District Magistrate is available to the petitioner against the impugned order, which has not been availed of by the petitioner.

5. This Court is of the view that the bar of alternative remedy would not disentitle the petitioner for relief in a case of the present nature where the impugned order is founded upon a show cause notice which is not sustainable in law. Clause 27(ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016 clearly mandates that no order of cancellation shall be made under this clause unless the licensee has been given a reasonable opportunity for stating his or her case against the proposed cancellation.

6. The impugned order dated 16.02.2018 (Annexure-1) is hereby quashed and the matter remanded to the Sub-Divisional Officer, Neemchak Bathani, Gaya (Respondent No. 3) for passing orders afresh after granting an opportunity of hearing to the petitioner in accordance with law. Licence of the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 3.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

BT/-

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

