

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4678 of 2018

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Amouna Primary Agriculture Cooperative Credit Society through its
Chairman Tajeshwar Nath Upadhyay, S/o Rabindra Nath Upadhyay, Resident
of Village-Kewa, Panchayat-Amouna, P.S.Block-Karakat, District-Rohtas.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection
Department, Govt. of Bihar, Patna.
2. The Collector, Rohtas at Sasaram.
3. The Sub-Divisional Officer, Bikramganj, Rohtas at Sasaram.
4. The Block Supply Officer, Karakat, Rohtas.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Bhubneshwar Prasad, Advocate
For the Respondent/s : Mr.S.Raza Ahmad -Aag5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 27-07-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

A counter affidavit has been filed today on behalf of
the respondent nos. 2 to 4.

Learned counsel for the petitioner submits that in this
case his license of the public distribution shop has been
cancelled without letting him know the allegations against him.
It is submitted that earlier his license was placed under
suspension only on the ground that one FIR bearing Kachhawan
P.S. Case No. 39 of 2017 was registered alleging that the
petitioner had been indulging in black marketing of the
foodgrains.



It is submitted that in the impugned order the licensing authority has recorded that vide office Memo No. 367 dated 21.09.2017 a notice to show cause was issued to the petitioner but the petitioner has specifically stated in Paragraph 16 of the writ application that no show cause notice dated 21.09.2017 was received by him. This specific denial of the petitioner in Paragraph 16 of the writ application has not at all been controverted in the counter affidavit filed on behalf of the respondents. In Paragraph 8 of the counter affidavit it is simply stated that “with regard to the statements made in Paragraph 4 to 11, 14 to 17 of the writ application it is stated that as is evident from the facts stated in Paragraph 1 of the statement of facts the license has been cancelled in accordance with law.”

Learned counsel for the State has though tried to defend the impugned order, however, he is unable to show that the notice to show cause dated 21.09.2017 was dispatched to the petitioner. No material has been brought with the counter affidavit to show the mode of service of notice by the respondents.

In these circumstances, the Court is required to accept the submissions of the petitioner that he was not served with the show cause notice dated 21.09.2017 and even the subsequent



reminder issued to the petitioner copy of which has been enclosed with the writ application does not contain the specific allegation which the petitioner was required to answer.

If this is the position the impugned order is liable to be held bad in law. It is accordingly set aside. The matter is remitted to the Sub-Divisional Officer, Bikramganj (Respondent No. 3) for a fresh consideration of the case on the basis of the materials available on record after giving an appropriate opportunity of hearing to the petitioner.

Let the whole exercise be completed within a period of 90 days from the date of receipt/production of a copy of this order.

The writ application stands disposed off.

(Rajeev Ranjan Prasad, J)

vats/ved

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