

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19847 of 2018

=====

Lal Bahadur Paswan Son of Judagi Paswan, Village- Mahajpura, P.S.-
Bikaram, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Food and consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Sub Divisional Officer, Paliganj, Patna.
4. The Block Supply Officer, Bikram, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Dineshwar Mishra
For the Respondent/s : Mr.S. Raza Ahmad- AAG5

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 27-07-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

A counter affidavit has been filed on behalf of
respondent no. 2 to 4. Let it be kept on the record.

Learned counsel for the petitioner submits that the
impugned order as contained in Annexure '1' to the I.A. No.
01/2019 is liable to be set aside on the solitary ground of non-
consideration of the explanations submitted by the petitioner.

It is submitted that earlier the licence of the petitioner
was suspended only on the ground that one F.I.R. had been
lodged against him. The suspension itself was illegal in terms of
Clause 28(iii) of the Bihar Targeted P.D.S. (Control) Order,



2016 (hereinafter referred to as the “Control Order, 2016”) because there was no finding that petitioner had been arrested or had gone fugitive. While placing the petitioner under suspension he was called upon to submit explanations with regard to the irregularities noted in the order of suspension (Annexure ‘2’). The petitioner had submitted his reply thereto but then without considering the said reply the licence of the petitioner has been cancelled.

Learned counsel submits that on bare perusal of the show cause notice contained in the order of suspension (Annexure ‘2’) it would appear that there was no proposal of cancellation of licence. Petitioner was only called upon to submit his reply which he did but then his reply was not looked into and the same has been rejected alleging that it was fabricated.

Learned counsel for the State though attempted to defend the impugned order, however, it is apparent from the record that the show cause notice (Annexure ‘2’) did not contain any proposal of cancellation of licence which is a mandatory condition in terms of the Control Order, 2016. However, it is also apparent that the explanation whatsoever submitted by the petitioner has not at all been considered. This being the position,



the impugned order of suspension as well as cancellation of licence are hereby set aside.

The matter is remitted to the Sub-Divisional Officer, Paliganj, Patna for a fresh consideration of the matter after giving an appropriate opportunity of hearing to the petitioner and by passing a reasoned order in accordance with law. 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 and supply of the petitioner shall stand restored.

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U			
---	--	--	--

