

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.781 of 2019

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Fudeni Roy Son of Late Babulal Roy, Resident of Mahua Singh Ray, P.S.-
Mahua, District-Vaishali.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.N.K. Agrawal, Sr.Adv.
For the Respondent/s : Mr. AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 30-09-2020 Heard Mr. N.K. Agrawal, learned senior counsel for

the petitioner and learned A.C. to A.A.G. 5 through Video

Conferencing.

2. The petitioner in this writ petition seeks quashing
of order as contained in Memo No.761 dated 08.12.2018 passed
by Sub-Divisional Officer, Mahua by which the P.D.S. license
of the petitioner has been cancelled.

3. Learned counsel for the petitioner submits that the
Sub-Divisional Officer, Mahua issued notice on 24.11.2018
(Annexure 1) but the notice is not descriptive about the
proposed action for cancellation of the license of the petitioner.
It is submitted that the notice must state the reasons for



cancellation or suspension of the license. In the case of **Ram Bachan Ram Vs.The State of Bihar & Ors, reported in 2018 (4) P.L.J.R. 516** this Court has clearly held that if the notice does not contain the proposed punishment, the same will vitiate the license cancellation proceeding. It is further submitted that the petitioner filed a detailed show-cause but from perusal of order impugned, it would appear that the Sub-Divisional Officer, Mahua did not at all consider the show-cause of the petitioner and, therefore, the order suffers from illegality and it amounts to violation of principles of natural justice.

4. Learned A.C. to A.A.G. 5 submits that from perusal of order, it would appear that the order is non-speaking and order does not reflect that the show-cause filed by the petitioner has been considered.

5. From perusal of notice as contained in Annexure 1, it appears that the petitioner has been called upon to show-cause on the irregularity mentioned in the notice but the notice does not contain the proposed punishment. The proposed punishment is required to be mentioned in the notice. However, the petitioner filed a detailed show-cause but from the order impugned passed by the Sub-Divisional Officer, Mahua, it appears that no part of the show-cause of the petitioner has been



considered and the order does not reflect in any way that the show-cause filed by the petitioner is considered at all. Thus, I find that the order impugned suffers from irregularity on account of non-consideration of show-cause filed by the petitioner and, the same is fit to be set aside. Accordingly, the writ petition is allowed and the order impugned is set aside. The matter is remitted to the Sub-Divisional Officer, Mahua to decide the case afresh in accordance with law.

(Prabhat Kumar Jha, J)

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