

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5649 of 2020

Prabhansh Kumar, Male, aged about 52 years, Son of Shokin Ram, Resident of Dulhin Ganj Saniya Barahata, P.S. Jagdishpur District- Bhojpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection, Government of Bihar, Patna.
2. The District Magistrate, Bhojpur.
3. Sub Divisional Officer, Jagdishpur, Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Mishra, Advocate
For the State : Mr.Shankar Kumar, A.C. to AAG-7

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 08-06-2020 Heard learned counsel for the petitioner and the State.

This matter has been taken up for hearing through video conferencing. Learned counsel for the petitioner undertakes that all the defects shall be removed without delay immediately after lockdown ends, and in any event within one month thereof.

Learned counsel for the respondent-State submits that he has no objection when the defects are removed and the matter be heard on merits.

By order dated 12.05.2020, this Court has directed to State to file counter affidavit but no counter affidavit is filed. It is also mentioned in the order that it is made clear that if by that date no counter affidavit is filed, then this Court will be constrained to finally hear the matter on its own merit and the materials



available on the record.

The present writ application has been filed for issuance of an appropriate writ in the nature of certiorari quashing the order contained in Memo No.913 dated 27.04.2020 passed by respondent no.3 by which the License No.5 of 2016 of the petitioner under Public Distribution System was cancelled.

It is submitted on behalf of the petitioner that the impugned order of cancellation of petitioner's P.D.S. License has been passed but the show cause notice issued did not specify the concern of the petitioner with regard to proposed cancellation of the license. Reliance is placed on the decision of this Court rendered in **Bhola Prasad Yadav vs. State of Bihar, 2010(3) PLJR 825** and also on **Parsauni Khirodhar Primary Agriculture Co-operative Society Ltd. & Ors vs. State of Bihar & Ors, 2015(3) PLJR 189.**

Learned AC to AAG-7 has appeared on behalf of the respondent and he has been heard. He has further not been able to demonstrate from the show cause notice that the same indicated for cancellation of the license of the petitioner.

Having heard the parties and on consideration of the materials available on record, this Court finds merits in this



case. It is not disputed that the show cause notice was issued without proposing cancellation of P.D.S. license and as such the impugned order of cancellation cannot be said to be well founded. The decision making process stands vitiated and is in violative of the principle of natural justice. Moreover, the show cause notice does not indicate the proposed cancellation of the license, also failed to avail the mandatory requirement in terms of Clause 7(ii) of the Bihar Fair Price Shop Order, 2007 as held in Parsauni Khirodhar Primary Agriculture Co-operative Society Ltd. (supra).

Accordingly, the impugned order dated 27.04.2020 contained in Memo No.913 (Annexure-1) is hereby quashed.

It is made clear that the respondents shall be at liberty to take a fresh step in the matter after issuance of fresh show cause notice in accordance with law, if so advised.

In the meantime, supplies of the petitioner shall be restored without delay until the fresh orders are passed by the respondent authority.

(Anjani Kumar Sharan, J)

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