

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6081 of 2020

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Sachitanand Rai, male, aged 50 years Son of Vasu Dev Rai Resident of
Chhitandihara Chhiton Dehra P.S. Dhansoi, Buxar, Ara

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Food and Civil Supply
Government of Bihar, New Secretariat, Patna.
2. The District Magistrate Buxar, Ara.
3. The Sub Divisional Officer, Buxar, Ara.

... .. Respondents

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Appearance:

For the Petitioner	:	Mr. Sanjeev Kumar Mishra, Advocate
For the Respondents	:	Mr. P.K. Verma, AAG 3
		Dr. Anand Kumar, AC to AAG 3

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 01-06-2020

This matter has been taken up for hearing through video conference. Learned counsel for the petitioner undertakes that all defects shall be removed without delay immediately after the lockdown ends, and in any event within one month thereof. Learned counsel for the respondents states that he has no objection if the defects are removed as proposed and the matter be taken up on merits in view of the stated urgency.

2. The present writ petition has been filed *“for issuance of an appropriate writ in the nature of certiorari quashing the order contained in memo no. 628 dated 28.09.2019 by which the licence no. 53 of 2016 of the petitioner under public distribution system has been cancelled and the petitioner further prays to restore the licence forthwith.”*

3. It is submitted on behalf of the petitioner that the impugned order of cancellation of the petitioner’s PDS licence



has been passed but the show cause notice issued did not specifically confront the petitioner with regard to proposed cancellation of the licence. Reliance is placed on the decisions of this Court rendered in *Bhola Prasad Yadav vs. The State of Bihar & others*, 2010(3) PLJR 825 and also in *Parsauni Khirodhar Primary Agriculture Co-operative Society Ltd. & others vs. The State of Bihar and others*, 2015(3) PLJR 189.

4. Dr. Anand Kumar, AC to AAG-3 appears on behalf of the respondents and has been heard. He has however not been able to demonstrate from the show cause notice (Annexure-3) that the same indicated proposed cancellation of the petitioner's licence.

5. Having heard the parties and on a consideration of the materials on record, this Court finds merit in the writ petition. It is not in dispute that a show cause was issued without proposing cancellation of the PDS licence, and as such the impugned order of cancellation cannot be said to be well-founded. The decision making process stands vitiated as being violative of the principles of natural justice. Moreover, the show cause notice, in not indicating the proposed cancellation of the licence, also failed to fulfill 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. & Ors. vs. The State of Bihar and others*, 2015 (3) PLJR 189.

6. Accordingly, the impugned order dated 28.09.2019 contained in memo no. 628 (Annexure-5) is hereby quashed.

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

8. In the meantime, supplies to the petitioner shall be restored without delay until fresh orders are passed by the Respondent no. 3.



9. It is also made clear that in view of the ongoing lockdown and Covid-19 pandemic, any correspondence between the parties may be made through email and that the concerned authority shall be at liberty to hear the petitioner through video conference. To enable the same, the petitioner undertakes to furnish his mobile number and e-mail ID to learned A.A.G.-3 not later than by Wednesday, i.e. 03.06.2020, for its onward transmission to the concerned authority.

10. The writ petition stands disposed of with the aforesaid observations and directions.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	02.06.2020
Transmission Date	-

