

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8123 of 2019

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Lukman Hakim (Ansari) Son of Late Zainul Haque R/o Village-Chalna,
Block and Anchal-Dhraiya, District-Banka

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Food and Civil Supply Department,
Old Secretariat, Patna
2. The District Magistrate Banka
3. The S.D.O. Banka
4. The Block Supply Officer, Ghoraiya Banka

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand
For the Respondent/s : Mr. Arvind Ujjwal (SC-4)
Mr. Maruth Nath Roy, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 25-02-2020 The present writ petition has been filed for quashing the order dated 12.11.2011 passed by the Sub-Divisional Officer, Banka, whereby and whereunder the P.D.S. license of the petitioner bearing License No. 9 of 1992 has been cancelled. The appellate order dated 28.12.2018 passed by the learned Collector, Banka in supply Appeal No. 105/2011-12 is also under challenge.

The short issue raised by the petitioner is that firstly in the show cause notice dated 06.09.2011, only 48 hours were granted to the petitioner to file his reply which is wholly insufficient and amounts to denial of reasonable opportunity for



the purposes of submitting his wholesome defence. Reference in this connection has been made to a judgment reported in **2013(1) PLJR 718 (Fulpati Devi vs. The State of Bihar & Ors.)**. The second issue raised by the learned counsel for the petitioner is that the order impugned has been passed in violation of Rule 27 of the Bihar Targeted P.D.S. (Control) Order, 2016 which specifically stipulates that ample opportunity is to be granted with regard to submitting of reply to the proposed punishment of cancellation of the license. However, in the present case, it is submitted that the the show cause notice only speaks of the proposed punishment of suspension of license and by the impugned order dated 12.11.2011, the learned Sub-Divisional Officer, Bank has in fact cancelled the license of the petitioner, as such, the said order dated 12.11.2011 is perverse and is fit to be set aside. In this connection, the petitioner has referred to a judgment reported in **2018(4) PLJR 516 (Ram Bechan Ram vs. The State of Bihar & Ors.)**

The learned counsel for the State has got no quarrel in law as also on fact.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties as also considering the judgments rendered by



this Court in the cases of *Fulpati Devi* (supra) and Ram Bechan Ram (supra), this Court finds that the impugned order dated 12.11.2011 has been passed *de hors* the provisions contained in Rule 27 of the Bihar Targeted P.D.S. (Control) Order, 2016 inasmuch as no opportunity has been granted to the petitioner to put forth his defence against the proposal of cancellation of his license since the show cause notice dated 06.09.2011 only contains the proposal of suspension of license in question, hence the order impugned dated 12.11.2011 passed by the learned Sub-Divisional Officer, Banka, being contrary to law, is set aside. Consequently, the appellate order dated 28.12.2018, passed by the learned Collector, Banka is bound to fall, hence is also quashed.

The writ petition stands allowed, however, with liberty to the respondent authorities to proceed afresh, in accordance with law.

(Mohit Kumar Shah, J)

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