

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23277 of 2018

=====

Barho Singh S/o Late Ram Sehal Singh, Resident of Village Bhualpur,
Buniyadganj, P.S- Manpur, District – Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Food & Consumer Protection Department, Old Secretariate, Patna.
2. The SDO, Sadar Gaya.
3. The Block Supply Officer, Town, Gaya

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Vijay Anand, Adv.
For the Respondent/s : Mr.S. Raza Ahmad- AAG5

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 30-09-2020 Heard both sides through Video Conferencing.

2. The petitioner in this writ petition prays for setting aside the order dated 28.09.2018 as contained in Memo No.1322 passed by the Sub-Divisional Officer, Sadar, Gaya by which the P.D.S. licence of the petitioner has been cancelled. The further prayer of the petitioner is to restore the P.D.S. licence of the petitioner for carrying on business of Fair Price Shop.

3. The petitioner was granted P.D.S. licence bearing Licence No.01 of 2016 for running a Fair Price Shop in Panchayat Sanaut. The Fair Price Shop of the petitioner was inspected on 31.08.2018 by the Block Supply Officer, Gaya and certain irregularities were found. On the basis of report of the Block Supply Officer, Gaya, the Sub-Divisional Officer, Sadar,



Gaya issued show-cause notice calling upon the petitioner to file show-cause within three days. The petitioner gave reply on 17.09.2018 categorically denying the allegations made against the petitioner but without considering the show-cause of the petitioner, the licence of the petitioner was cancelled. The learned counsel for the petitioner submits that the Sub-Divisional Officer while cancelling the licence of the petitioner placed reliance on the provisions of the Food Security Act, 2013 but the licence issued under the Essential Commodities Act cannot be cancelled under the Food Security Act. The same is cancelled only for violation of any order made under the Essential Commodities Act. It is further submitted that the Sub-Divisional Officer, Sadar, Gaya gave only three days time to file show-cause, which is insufficient. The enquiry report has not been served on the petitioner before asking the petitioner to submit show-cause and the Sub-Divisional Officer cancelled the licence of the petitioner travelling beyond the ambit of show-cause notice.

4. The learned counsel for the State submits that there is a provision of appeal under the Act. The appeal lies before the Collector. The petitioner has moved this Court under extraordinary jurisdiction without availing the statutory appeal,



which is alternative and efficacious in nature.

5. Having considered the submissions of both sides, I find that there is efficacious and alternative remedy by way of statutory appeal against the order of the Sub-Divisional Officer cancelling the licence of the petitioner. In this view of the fact I dispose of the writ petition with a direction to the petitioner to present the statutory appeal before the Collector, Gaya within 30 days from the date of receipt of this order and upon such, the Collector, Gaya shall dispose of the appeal of the petitioner within four months thereafter on merit.

6. With the aforesaid directions, this writ petition stands disposed of.

(Prabhat Kumar Jha, J)

Harish/-

U			
---	--	--	--

