

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4331 of 2021

Mustafa Khan Son of Sri Sarajul Khan. Resident of Village-Kopa. P.O. Kopa,
P.S. Kopa, District-Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Consumer and Food Protection Department
Government of Bihar, Patna.
3. The Divisional Commissioner, Saran Division, Chapra.
4. The District Magistrate, Saran at Chapra,
5. The Sub-Divisional Officer, Sadar Chapra,
6. The Block Development officer, Jalalpur, District-Saran at Chapra,
7. The Block Supply Officer, Jalalpur, District-Saran at Chapra,

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar Manglam, Advocate
For the Respondent/s : Mr. Lalit Kishore (AG)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-12-2021

Petitioner has prayed for the following relief(s):-

“(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the notice dated 15.04.2020 contained in memo no. 2458 dated 15.04.2020 and the notice dated 01.06.2020 contained in memo no. 2929 dated 01.06.2020 issued under the signature of the Respondent No. 5, whereby and whereunder the respondent no. 5 was pleased to call upon the petitioner to file his show cause against the charges mentioned in the show cause notice, on the ground that the said notice issued by the Respondent no. 5 is not a valid notice in the eye of law since it does not comply the requirement of a valid notice as contemplated under Clause 27(ii) of the Bihar Targeted Public Distribution System (Control) Order 2016 (hereinafter referred to as 2016 Control Order).



(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 30.06.2020 passed by the Respondent No. 5 and contained in his memo no. 4170 dated 30.06.2020, whereby and whereunder the Respondent No. 5 has been pleased to cancel the Fair Price Shop license of the petitioner being License No. 84 of 2016 on the ground that the said order was passed by the Respondent No. 5 on the basis of a notice which was not a proper notice in the eye of law as also on the ground that the impugned order passed by the Respondent no. 5 suffers from inherent non-compliance of the principles of natural justice.

(III) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities for restoration of fair price shop license as also for grant of allotment to the petitioner for the consumers attached with the petitioner's fair price shop.

(IV) For issuance of an appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

The petitioner is a licensee of fair price shop since the year 2000. His licence was also renewed after coming into force of Bihar Targetted Public Distribution System (Control) Order, 2016.

A notice to show cause was issued to the petitioner asking him as to why his licence should be not cancelled in view of the irregularities found during inspection on 31.03.2020, within two days.

Subsequently, another show cause notice was issued to the petitioner by the respondent no.5, namely Sub-divisional



Officer, Sadar, Chapra, on 01.06.2020 asking him to give explanation along with supporting documents about the irregularities found by the Deputy Collector, Land Reforms, Sadar Chapra, within one week, failing which action would be taken in accordance with law.

Learned counsel for the petitioner submits that the petitioner was not supplied the enquiry report along with the two notices and without affording proper opportunity to place his case, the impugned order has been passed cancelling his licence.

We notice that the impugned order dated 30.06.2020, cancelling the petitioner's licence, has been passed by the Sub-Divisional Officer, Sadar, Chhapra without following due process of law. We also notice that the Officer has simply observed that no proof to rebut the allegations was placed on record by the petitioner, but the Officer does not state as to what really are the allegations/charges against the petitioner. The order is absolutely cryptic and non-speaking. The objection filed by the petitioner was neither referred to nor dealt with by the Officer.

As such, on this short ground alone, we quash and set aside the order dated 30.06.2020 (Annexure-6, Page-22) passed by the Sub-Divisional Officer, Sadar, Chhapra remanding the matter back to the officer concerned for passing a fresh order in



accordance with law.

Since the matter pertains to the year 2020, petitioner shall appear before the appropriate authority on 10.01.2022, on which date, he shall also file a detailed response and place on record materials in support of his case.

The appropriate authority shall pass a fresh order assigning reasons within a period of four weeks thereafter. Liberty reserved to assail the same before the appropriate forum, should the need so arise subsequently.

The writ petition stands allowed with the aforesaid observations and directions.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

P.K.P./Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	24.12.2021
Transmission Date	

