

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL WRIT JURISDICTION CASE NO. 4956 of 2021

Md. Moazzam Ali, son of Tamij Uddin, Resident of Village
Imadpur, P.S. Sahkund, District Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food
and Consumer Protection Department, Old Secretariat,
Patna.
2. The District Magistrate, Bhagalpur.
3. The Licensing Authority cum Sub-Divisional Officer, Sadar
Bhagalpur, District Bhagalpur.

... .. Respondent/s

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Appearance:

For the Petitioner/s	: Mr. Rajeev Kumar Labh, Adv.
For the Respondent/s	: Mr. Upendra Pratap Singh, AC to SC-4

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

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24-09-2021

The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

The present writ petition has been filed for quashing the order dated 2.1.2021 passed by the Sub-Divisor

adar, Bhagalpur, whereby



and whereunder the PDS license of the petitioner bearing license no. 4/2016 has been cancelled.

The learned counsel for the petitioner has raised a short issue for consideration, to the effect that while issuing the show cause notice dated 27.1.2020, the Sub-Divisional Officer, Sadar, Bhagalpur did not indicate about any proposal for cancellation of the license. Thus, no show cause notice was issued to the petitioner, proposing cancellation of the license, as is contemplated under Rule 27(ii) of the Bihar Targeted PDS (Control) Order, 2016. The learned counsel for the petitioner has further submitted that the present case is squarely covered by a judgment rendered by the learned Division Bench of this Court dated 10.7.2018 passed in L.P.A. No. 499 of 2018 (Ram Bachan Ram vs. The State of Bihar & Ors.).

The learned counsel for the Respondent-State, Sri Upendra Pratap Singh (AC to SC-4), has not disputed the position, as is existing in law.



Having regard to the facts and circumstances of the case and having considered the materials available on record, this Court finds that the show cause notice dated 27.1.2020, issued by the Sub-Divisional Officer, Sadar, Bhagalpur, does not mention about any proposal for cancellation of the license of the petitioner, hence admittedly, no show cause notice has been issued to the petitioner, proposing cancellation of the license, as is contemplated under Rule 27(ii) of the Bihar Targeted PDS (Control) Order, 2016. Thus the show cause notice dated 27.01.2020, issued by the Sub-Divisional Officer, Sadar, Bhagalpur, is not only contrary to the provisions contained in clause-27(ii) of the Bihar Targeted PDS Control Order, 2016 but also contrary to the law laid down by this Court in the case of Ram Bachan Ram (supra), hence, the impugned order dated 2.1.2021 suffers from material legal infirmity on account of the show cause notice dated 27.01.2020 being contrary to law. Consequently, the impugned order dated



2.1.2021, passed by the Sub-Divisional Officer, Sadar, Bhagalpur, stands vitiated in the eyes of law, thus, is quashed, however, with liberty to the Sub-Divisional Officer, Sadar, Bhagalpur to proceed afresh, in accordance with law.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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