

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5399 of 2021

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Sudhir Prasad Singh @ Sudheer Kumar Singh Son of Janardan Prasad Singh
Resident of Village- Masathu, P.O. Masathu, P.S.- Barh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate Patna.
3. The Sub Divisional Officer Barh, Patna.
4. The Block Supply Officer Bakhtiyarpur, Patna.
5. The Block Supply Officer Barh, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vijay Anand, Adv.

For the Respondent/s : Mr.Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 05-10-2021 The present writ petition has been filed for quashing of the order dated 26.08.2017 passed by the Sub-Divisional Officer, Barh, Patna whereby and whereunder the PDS license of the petitioner bearing license no. 46/2016 has been cancelled. The petitioner has also prayed for quashing of the order dated 23.11.2020 passed by the learned court of Collector-cum-District Magistrate, Patna in Supply Appeal No. 648/2017-18.

The learned counsel for the petitioner has raised a short point for consideration, to the effect that the show cause notice dated 21.8.2017, issued by the office of the Sub-Divisional Officer, Barh does not mention about any proposal



for cancellation of the license as is mandated 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 21.8.2017, issued by the Sub-Divisional Officer, Barh, 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 21.08.2017, issued by the Sub-Divisional Officer, Barh, 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 Bechan Ram (supra), hence, the impugned order dated 26.8.2017 suffers from material legal infirmity on account of the show cause notice dated 21.08.2017 being contrary to law. Consequently, the impugned order dated 26.08.2017, passed by the Sub-Divisional Officer, Barh, stands vitiated in the eyes of law, thus, is quashed, however, the matter is remanded back to the Sub-Divisional Officer, Barh for proceeding afresh, in accordance with law.

Since the original order dated 26.08.2017 passed by the Sub-Divisional Officer, Barh has stood quashed, the appellate order dated 23.11.2020 passed by the learned Collector-cum- District Magistrate, Patna has got no legs to stands, hence the same is also quashed.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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