

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

Civil Writ Jurisdiction Case No.139 of 2019

=====

SubhashRai son of Halkhori Ray, resident of village-  
Purusottampur, P.S. Kalyanpur, District-Samastipur

----- Petitioner

versus

1. The State of Bihar
2. The Principal Secretary, Food Civil Supply and Consumer  
Protection, Government of Bihar, Patna
3. The Director, Food and Civil Supply, Government of Bihar,  
Patna
4. The District Magistrate, Samastipur
5. The District Supply Officer, Samastipur
6. The Sub-Divisional Officer, Samastipur
7. The Block Development Officer, Kalyanpur, District-  
Samastipur
8. The Block Supply Officer, Kalyanpur Block, District-  
Samastipur
9. Nagendra Rai son of Ramji Rai, resident of village-  
Purusottampur, P.S. Kalyanpur, District-Samastipur
10. Nathuni Mahto son of not known, resident of village-  
Purusottampur, P.S. Kalyanpur, District-Samastipur

----- Respondents



=====

**Appearance:-**

For the Petitioner :- Mr. N.K. Agarwal, Sr. Advocate

For the State :- Mr. Alok Ranjan, Advocate

=====

**CORAM:HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**

**ORAL ORDER**

3.      **01.07.2021**      The present petition 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 petition has been filed for quashing the order dated 04.09.2018 passed by the Sub-Divisional Officer, Samastipur.

The brief facts of the case are that the petitioner was granted public distribution shop license bearing License No. 193 of 2008 in the year 2008. It appears that the respondent no. 7 had made a complaint subsequently before the Sub-Divisional Officer, Public Redressal Grievance, Samastipur regarding short supply of wheat grains and charging of more price than that prescribed by the Government. The Sub Divisional



Officer, Samastipur had then issued a show cause notice dated 03.01.2008 which was replied to by the petitioner. The Sub-Divisional Officer, Samastipur by an order dated 05.04.2018 had cancelled the P.D.S. dealership license of the petitioner, which was challenged by the petitioner by filing an appeal bearing Appeal No. 29 of 2018, before the learned Collector, Samastipur. The appeal was allowed and the learned Collector by an order dated 31.07.2018 had remanded the case back to the Sub-Divisional Officer, Samastipur, nonetheless the Sub-Divisional Officer, Samastipur, without issuing any further/fresh show cause notice to the petitioner, had again passed an order dated 04.09.2018 cancelling the PDS dealership license of the petitioner.

The learned senior counsel for the petitioner Shri. N. K. Agarwal has made a short submission to the effect that as far as the show cause notices in question are concerned, i.e the ones dated 03.01.2018 and 16.02.2018, the same do not contain the proposed action of cancellation of the PDS license of the petitioner, hence the license of the petitioner has been cancelled without him being confronted with the proposed punishment,



thus the same is in violation of sub-clause (ii) of Order 27 of the Bihar Targeted PDS (Control) Order, 2016.

The learned counsel for the respondent-State does not controvert the position as is existing in law, however, submits that the aforesaid issue was not raised before the Sub-Divisional Officer, Samastipur.

I have heard the learned counsel for the parties and gone through the materials on record. At the outset, it would be relevant to reproduce clause-27 of the Bihar Targeted PDS (Control) Order, 2016 herein below:-

“27. Cancellation of License. - (i) If a licensee violates any provision of this Order or fails to comply duties and responsibilities assigned to the license, his license shall be cancelled by the licensing authority by a written order, and such a cancellation of license shall not affect other actions initiated/initiable under the Essential Commodity Act, 1955 (Central Act 10 of 1955).

(ii) No order of cancellation of a license shall be made until the licensee has been given sufficient opportunity to state his case against the proposal of cancellation of his license.



(iii) The cases of violation of the provisions of this Order shall be disposed of within two months, as far as possible, after coming in cognizance as for.”

It is clear from a bare perusal of the aforesaid clause 27 of the Bihar Targeted PDS (Control) Order, 2016, that in case the respondent authority proposes to cancel the PDS license of a license holder, the licensee has to be given sufficient opportunity to state his case against the proposal of cancellation of license, however, in the present case the show cause notices dated 03.01.2018 and 16.02.2018, nowhere mentions about the proposal of cancellation of license if the show cause reply of the petitioner is found to be unsatisfactory, hence it is apparent that the petitioner has been denied reasonable opportunity to put forth his defence and represent his case against the proposed punishment of cancellation of license, which in turn has led to the violation of the principles of natural justice, hence in the opinion of this court, the impugned order dated 04.09.2018 passed by the Sub-Divisional Officer, Samastipur is bad in law, hence is quashed.



At this juncture, it would be relevant to state that the law in this regard is no longer res integra inasmuch as the learned Division Bench of this Court has already set at rest the issue under consideration in the present case by a judgment rendered in the case of *Ram Bachan Singh vs. The State of Bihar & Ors.*, reported in *2018(4) PLJR 516*.

Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, the writ petition stands allowed, however, with liberty to the respondent authorities to proceed afresh in accordance with law, if they so desire.

**(Mohit Kumar Shah, J)**

S.Sb/-

