

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5532 of 2020

Pradeep Kumar, Male, aged about 30 years, Son of Babu Lal Prasad, Resident of Village - Gokhula P.O. + P.S.- Banjariya, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna.
2. The Collector, East Champaran.
3. The Sub Divisional Officer, Motihari, East Champaran.
4. The District Supply Officer, East Champaran.
5. The Block Supply Officer, Banjaria, East Champaran.
6. The Circle Officer, Motihari Sadar, East Champaran.
7. Assistant Godown Manager, Banjaria, M/S Champaran Trading Company, Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs.Soni Srivastava, Advocate
		Mr.Mitali, Advocate
For the Respondent/s	:	Mr.Arvind Ujjwal (SC4)

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 04-03-2021 Heard learned counsel for the petitioner and the State.

By order dated 21.01.2021, this Court has directed to State to file counter affidavit but no counter affidavit is filed. It is also mentioned in the order that it is made clear that if by that date no counter affidavit is filed, then this Court will be constrained to finally hear the matter on its own merit and the materials available on the record.

The present writ application has been filed for issuance of an appropriate writ in the nature of certiorari



quashing the order contained in Memo No.78 of 2019 dated 25.11.2019 passed by respondent no.3 by which the License No.33 of 2019 of the petitioner under Public Distribution System was cancelled.

It is submitted on behalf of the petitioner that the impugned order of cancellation of petitioner's P.D.S. License has been passed but the show cause notice issued did not specify the concern of the petitioner with regard to proposed cancellation of the license. Reliance is placed on the decision of this Court rendered in **Bhola Prasad Yadav vs. State of Bihar, 2010(3) PLJR 825** and also on **Parsauni Khirodhar Primary Agriculture Co-operative Society Ltd. & Ors vs. State of Bihar & Ors, 2015(3) PLJR 189**.

Learned S.C.4 has appeared on behalf of the respondent and he has been heard. He has further not been able to demonstrate from the show cause notice that the same indicated for cancellation of the license of the petitioner.

Having heard the parties and on consideration of the materials available on record, this Court finds merits in this case. It is not disputed that the show cause notice was issued without proposing cancellation of P.D.S. license and as such the impugned order of cancellation cannot be said to be well



founded. The decision making process stands vitiated and is in violative of the principle of natural justice. Moreover, the show cause notice does not indicate the proposed cancellation of the license, also failed to avail the mandatory requirement in terms of Clause 7(ii) of the Bihar Fair Price Shop Order, 2007 as held in Parsauni Khirodhar Primary Agriculture Co-operative Society Ltd. (supra).

Accordingly, the impugned order dated 25.11.2019 contained in Memo No.78 of 2019 (Annexure-5) is hereby quashed.

It is made clear that the respondents shall be at liberty to take a fresh step in the matter after issuance of fresh show cause notice in accordance with law, if so advised.

In the meantime, supplies of the petitioner shall be restored without delay until the fresh orders are passed by the respondent authority.

(Anjani Kumar Sharan, J)

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