

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9633 of 2021

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Kamla Devi W/o Jodhan Paswan Resident of village - Kamal Bigha, P.S.-
Ben, District- nalanda

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna
2. The Collector, Nalanda at Biharsharif
3. The Sub Divisional Officer Hilsa, District- Nalanda
4. The Assistant District Supply Officer, Hilsa, District- Nalanda
5. The Block Supply Officer, Chandi, district- Nalanda

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 07-10-2021 The present petition has been filed seeking quashing of the order dated 04.02.2021 passed by the Sub-Divisional Officer, Hilsa, whereby and whereunder the PDS license of the petitioner bearing No. 65 of 2007, has been cancelled.

The short point raised by the learned counsel for the petitioner is that a bare perusal of the show cause notice dated 05.08.2020 would show that the learned Sub-Divisional Officer, Hilsa, Nalanda has failed to mention about the proposal for cancellation of the license, which is contrary to the provision contained in 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 Standing Counsel-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 05.08.2020 issued by the Sub-Divisional Officer, Hilsa, Nalanda 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 05.08.2020, issued by the Sub-Divisional Officer, Hilsa, Nalanda 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



04.02.2021 suffers from material legal infirmity on account of the show cause notice dated 05.08.2020 being contrary to law. Consequently, the impugned order dated 04.02.2021 passed by the Sub-Divisional Officer, Hilsa, Nalanda stands vitiated in the eyes of law, thus, is quashed, however, with liberty to the Sub-Divisional Officer, Hilsa, Nalanda to proceed afresh, in accordance with law.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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