

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9695 of 2020**

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Satya Narayan Mandal, Son of Thakko Mandal, Resident of Village-  
Mahdeva, P.O. Shankarpur, Ward No.1, Block and P.S. Shivaji Nagar,  
District-Samastipur.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Patna.
2. The District Magistrate-Cum-Collector, Samastipur.
3. The Sub-Divisional Officer, Rosera Sub-Division, District-Samastipur.
4. The Block Supply Officer, Shivaji Nagar Block, District Samastipur.

... .. Respondents

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**Appearance :**

|                      |   |                                                                         |
|----------------------|---|-------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Kaushalesh Chaoudhary, Advocate<br>Mr. Ashok Kumar Mishra, Advocate |
| For the Respondent/s | : | Mr. Alok Ranjan, AC to AAG-5                                            |

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**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**  
**ORAL JUDGMENT**

**Date : 29-10-2021**

Learned counsel for the petitioner has filed an undertaking to remove all defects pointed out by the Stamp Reporter as and when required. It is accordingly directed that all the defects pointed out by the Stamp Reporter be removed within one month hereof.

2. Heard learned counsel for the petitioner as well as learned counsel for the respondents.

3. The present writ petition has been filed for “issuance of writ in the nature of certiorari or any other appropriate writ/writs for quashing the impugned order dated 02.05.2020



passed by Respondent Sub-Divisional Officer as contained in Memo No. 335 (Annexure-1), whereby and whereunder the License bearing No. 186 of 2016 issued under Public Distribution System in respect of Shankarpur Panchayat, Shivaji Nagar Block, has been cancelled depriving the petitioner without sufficient opportunity to state his case against the proposal of cancellation of his license in contravention of principle of natural justice and contrary to the provision laid down under Rule 27 (ii) of Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as “Control Order, 2016”). However, the Respondent Sub-Divisional Officer also passed the impugned order in contravention of the procedure and the power bestowed upon the District Level Selection Committee headed by the Chairman i.e. the District Magistrate pursuant to the provision made under Rule-5 of “the Control Order, 2016”, which empowers the Selection Committee consisting five persons/officials to select candidate for granting P.D.S. License. In that view of the matter and the said Rule enshrined in the Control Order, 2016, the District Level Selection Committee alone could cancel the license granted to the selected candidate by it, on certain charges proved against him following the principle of *Audi Alteram*



*Partem*".

4. Learned counsel for the petitioner assails the impugned order of cancellation of his PDS licence on the ground that the show cause notice did not indicate the proposed action for cancellation of the licence which is a mandatory requirement in terms of Clause 7(ii) of the Bihar Fair Price Shop Order, 2007. Reliance is placed on a decision of this Court in *Prasauni Khirodhar Primary Agriculture Co-operative Society Ltd. & Ors Vs. The State of Bihar and others*, 2015(3) PLJR189.

5. Learned counsel for the respondents appears and has been heard. He submits that remedy by way of appeal before the District Magistrate is available to the petitioner against the impugned order, which has not been availed of by the petitioner.

6. This Court is of the view that the bar of alternative remedy would not disentitle the petitioner for relief in a case of the present nature where the impugned order is founded upon a show cause notice which is not sustainable in law. Clause 7(ii) of the Bihar Fair Price Shop Order, 2007 clearly mandates that no order of cancellation shall be made under this clause unless the licensee has been given a reasonable opportunity for stating his or her case against the proposed cancellation.

7. The impugned order contained in Memo No. 335



dated 02.05.2020 (Annexure-1) is hereby quashed and the matter is remanded to the Sub-Divisional Officer, Rosera, District -Samastipur (respondent no. 3) for passing orders afresh after granting an opportunity of hearing to the petitioner in accordance with law. Supplies to the petitioner shall be restored without delay until fresh orders are passed by the Respondent no. 3.

8. The writ petition stands allowed as above.

9. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para-1 hereinabove, failing which the matter shall be brought to the notice of this Court.

**(Vikash Jain, J)**

V.K.Pandey/-

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