

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11898 of 2021

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Amit Kumar Son of Late Yogendra Prasad Resident of Panchvati Nagar,
Bhatta Road, Police Station- Danapur, Post - Office - Danapur, District-
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Civil Supply Department, Old Secretariat, Patna.
2. The Secretary, Food and Civil Supply Department, Old Secretariat, Patna.
3. The District Magistrate, Patna.
4. The Sub Divisional Officer - cum - Licensing Authority, Danapur, District- Patna.
5. The Weight and Measurement Officer, Danapur Town, District- Patna.
6. The Assistant District Supply Officer, Danapur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Sanjeet Kumar, Advocate Mr. Ujjawal Bhushan, 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 writ petition has been filed seeking quashing of the order dated 16.03.2019 passed by the Sub-Divisional Officer, Danapur, whereby and whereunder the PDS license of the petitioner bearing License No. 01 of 2018 has been cancelled. The petitioner has further prayed for quashing of the appellate order dated 19.03.2021 passed by the learned court of Collector-cum-District Magistrate, Patna in E.C. Appeal Case No. 2 of 2019-20, whereby and whereunder the appeal has been rejected.



The short point raised by the learned senior counsel for the petitioner is that a bare perusal of the show cause notice dated 09.02.2019 would show that the learned Sub-Divisional Officer, Danapur 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 09.02.2019 issued by the Sub-Divisional Officer, Danapur 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 09.02.2019, issued by the Sub-Divisional Officer, Danapur 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 16.03.2019 suffers from material legal infirmity on account of the show cause notice dated 09.02.2019 being contrary to law. Consequently, the impugned order dated 16.03.2019 passed by the Sub-Divisional Officer, Danapur stands vitiated in the eyes of law, thus, is quashed. Since the original order dated 16.03.2019 has stood quashed, the appellate order dated 19.03.2021 has got no legs to stand, hence is also quashed.

The matter is remanded back to the Sub-Divisional Officer, Danapur to proceed afresh in the matter, in accordance with law. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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