

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13130 of 2021

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Mahendra Prasad Yadav S/o Bhikhari Ray, Resident of Talwa Pokhar, P.S.-
Kotwa, Block-Kotwa, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Collector, East Champaran at Motihari.
3. The Sub Divisional Officer, Sadar Motihari.
4. The Block Supply Officer, Kotwa, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr.S. Raza Ahmad (AAG-5)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 04-10-2021 The present writ petition has been filed seeking quashing of the impugned order dated 12.08.2020 passed by the Sub-Divisional Officer, Sadar Motihari, whereby and whereunder the PDS licence of the petitioner bearing license no. 02190016/2007 has been cancelled. The petitioner has further challenged the appellate order dated 23.01.2021 passed by the Collector, West Champaran, Motihari, whereby and whereunder the appeal of the petitioner has been rejected.

The learned counsel for the petitioner has raised a short issue for consideration, to the effect that while issuing the show cause notice dated 25.06.2020, the Sub-Divisional Officer, Sadar Motihari did not indicate about any proposal for



cancellation of the license. Thus, no show cause notice was issued to the petitioner, proposing cancellation of the license, as is contemplated under 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 Alok Ranjan, AC to AAG-5, 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 25.06.2020, issued by the Sub-Divisional Officer, Sadar Motihari, 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 25.06.2020, issued by the Sub-Divisional Officer, Sadar Motihari, 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 12.08.2020 suffers from material legal infirmity on account of the show cause notice dated 25.06.2020 being contrary to law. Consequently, the impugned order dated 12.08.2020, passed by the Sub-Divisional Officer, Sadar Motihari , stands vitiated in the eyes of law, thus, is quashed, however, with liberty to the Sub-Divisional Officer, Sadar Motihari to proceed afresh, in accordance with law.

Since the original order dated 12.08.2020 has stood quashed, the appellate order dated 23.01.2021 has got no legs to stand, thus is also quashed.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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