

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 14023 of 2021

=====

Dashrath Das Son of Sukan Das, Resident of Ward No. 7, Village -
Bhatauriya, P.S. - Maksudanpur, District - Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Bhagalpur.
3. The Licensing Authority - Cum - Sub Divisional Officer, Sadar, Bhagalpur, District - Bhagalpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Advocate
For the Respondent/s : Mr. Alok Ranjan (AC to AAG 5)

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 24-09-2021 The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

The present petition has been for quashing the order dated 15.07.2021, passed by the Licensing Authority- cum- Sub Divisional Officer, Sadar, Bhagalpur, by which the P.D.S. license of the petitioner bearing License no. 25 of 2016 has been cancelled.

The short point raised by the learned counsel for the petitioner for consideration is that while issuing the show cause



notice dated 27.05.2021, the Sub Divisional Officer, Sadar, Bhagalpur has not indicated about any proposal regarding cancellation of the license. Thus no show cause notice was issued to the petitioner, proposing cancellation of license, as is contemplated under ***Rule 27 (ii) of the Bihar Targeted Public Distribution System (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 of this Court in the case of ***Ram Bachan Ram vs. The State Of Bihar & Ors., reported in 2018(4) PLJR 516.***

Per contra, the learned counsel for the State Sri Alok Ranjan (AC to AAG 5) has not disputed the position as is existing in law.

Having regards 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 27.05.2021, issued by the Sub Divisional Officer, Sadar, Bhagalpur 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



27.05.2021, issued by the Licensing Authority- cum- Sub Divisional Officer, Sadar, Bhagalpur, 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 15.07.2021 suffers from material legal infirmity on account of the show cause notice dated 27.05.2021 being contrary to law. Consequently, the impugned order dated 15.07.2021, passed by the Licensing Authority- cum- Sub Divisional Officer, Sadar, Bhagalpur, stands vitiated in the eyes of law, thus, is quashed, however, with liberty to the Sub Divisional Officer, Sadar, Bhagalpur to proceed afresh, in accordance with law.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

rinkee/-

U			
---	--	--	--

