

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No. 414 of 2021**

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Madan Mohan Jha, Son of Late Chandeshwar Jha, Resident of Village and  
P.O. Koriyahi, P.S. Sursand, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Consumer and Food Protection Department,  
Government of Bihar, Patna.
3. The District Magistrate, Sitamarhi, District-Sitamarhi.
4. The Sub Divisional Officer, Pupri, District-Sitamarhi.
5. The Block Supply Officer, Sursand, District-Sitamarhi.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s        | : | Mr. N.K. Agarwal, Sr. Adv.           |
| For the Respondent/s        | : | Mr. Upendra Pratap Singh, AC to SC-4 |
| For the Private Intervenors | : | Mr. Md. Ashhar Mustafa, Adv.         |

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**

ORAL ORDER

2      21-09-2021                      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 writ petition has been filed seeking quashing of the order dated 22.7.2020 passed by the Sub-Divisional Officer, Pupri whereby and whereunder the license of the petitioner bearing license no. 79/2019 has been



cancelled.

The learned Senior Counsel for the petitioner, Sri N.K. Agarwal, has submitted that first of all, a bare perusal of the impugned order dated 22.7.2020 would show that there is no consideration of the reply submitted by the petitioner, in pursuance to the show cause notice issued by the Sub-Divisional Officer, Pupri and secondly, the decision to cancel the PDS license of the petitioner is based upon the opinion submitted by the Block Supply Officer, Sursand vide his letter dated 04.07.2020, which in any view of the matter amounts to abdication of duties on the part of the Sub-Divisional Officer, Pupri inasmuch as the Sub-Divisional Officer, Pupri, who is also the licensing authority, was / is required to apply his independent mind to come to a conclusion as to whether the license in question is required to be cancelled or not.

The learned counsel for the Respondent-State, Sri Upendra Pratap Singh (AC to SC-4), does not dispute the position, as is existing in law.



The learned counsel appearing for the intervenors, Md. Ashhar Mustafa, has defended the impugned order passed by the Sub-Divisional Officer, Pupri.

I have heard the Ld. counsel for the parties and have gone through the materials on record, from which this Court finds that the Sub-Divisional Officer, Pupri has failed to consider the replies submitted by the petitioner, thus, the impugned order dated 22.7.2020 not only smacks of non-application of mind but has also been passed, in complete violation of the principles of natural justice and moreover, the decision to cancel the license of the petitioner has been taken by the Sub-Divisional Officer, Pupri, only on the basis of the opinion of the Block Supply Officer, Sursand, submitted vide his letter dated 04.07.2020, which in any view of the matter was never supplied to the petitioner so as to seek his response with regard to the same and secondly, the same also amounts to non-application of independent mind by the Sub-Divisional Officer, Pupri, resulting in the



impugned order dated 22.7.2020 being unsustainable in the eyes of law.

Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, this Court finds that the impugned order dated 22.7.2020, passed by the Sub-Divisional Officer, Pupri stands vitiated in the eyes of law, hence, is quashed, however, the matter is remanded back to the Sub-Divisional Officer, Pupri to proceed afresh, in accordance with law.

The writ petition stands allowed.

**(Mohit Kumar Shah, J)**

Ajay/-

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