

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.712 of 2021

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Pashupati Nath Ray Son of Amiri Lal Ray Resident of Village-Lauan Kala,
P.S.-Baniyapur, District-Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supply, Government of Bihar, Patna.
2. The District Magistrate, Saran at Chapra.
3. The Sub-Divisional Officer, Sadar at Saran at Chapra.
4. The Block Supply Officer, Baniyapur, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh, 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 27-10-2021 The present petition has been filed for quashing the order dated 06.08.2020 passed by the Sub-Divisional Officer, Sadar Chapra, whereby and whereunder the license of the PDS shop of the petitioner bearing License No. 60 of 2016 has been cancelled.

The short ground raised by the petitioner for assailing the impugned order dated 06.08.2020 is that neither of the two show cause notices dated 31.12.2019 and the one dated 06.05.2020 mention about the proposal for cancellation of the license which is mandatorily required to be mentioned under Rule 27(ii) of the Bihar Targeted PDS (Control) Order, 2016. 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 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 notices dated 31.12.2019 and 06.05.2020, issued by the Sub-Divisional Officer, Sadar Chapra, do 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 notices dated 31.12.2019 and 06.05.2020, issued by the Sub-Divisional Officer, Sadar Chapra, are 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 06.08.2020 suffers from material legal infirmity on account of the show cause



notices dated 31.12.2019 and 06.05.2020 being contrary to law. Consequently, the impugned order dated 06.08.2020, passed by the Sub-Divisional Officer, Sadar Chapra stands vitiated in the eyes of law, thus, is quashed, however, the matter is remanded back to the Sub-Divisional Officer, Sadar Chapra to proceed afresh, in accordance with law.

The writ petition stands allowed.

It is needless to state that as far as the confiscation of the food grains of the PDS shop of the petitioner is concerned, the petitioner has a separate remedy, hence the petitioner would be at liberty to avail such remedy as is available under the law for the purposes of assailing the confiscation order, if any.

(Mohit Kumar Shah, J)

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