

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 14972 of 2021

Shivkumar Tiwary S/o Rameshwar Tiwary, R/O - Village - Mahudahi,
Panchayat - Nathmalpur, Block - Barhara, P.O. and P.S.- Barhara, District -
Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Food and Civil Supply
Government of Bihar, Patna.
2. The Principal Secretary Food and Civil Supply, Government of Bihar, Patna.
3. The District Magistrate, Bhojpur.
4. The District Supply Officer, Bhojpur.
5. The Sub-Divisional Officer, Sadar, Ara.
6. The Block Supply Officer, Barhara.

... .. Respondent/s

Appearance:

For the Petitioner/s : Mr. Alok Ranjan, Advocate
For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 23-09-2021 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 26.03.2021 passed by the Sub-
Divisional Officer, Sadar, Ara, Bhojpur, whereby and
whereunder the PDS license of the petitioner bearing License



No. 188 of 2020, has been cancelled.

The short point raised by the learned counsel for the petitioner Shri Alok Ranjan is that though the show cause notice dated 08.02.2021 mentions about the proposal of suspension of license of the petitioner, however, by the impugned order dated 26.03.2021, the license of the petitioner has been cancelled. It is submitted that 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, hence the license of the petitioner could not be cancelled. It is submitted that the present issue is squarely covered by the judgment rendered by the learned Division Bench of this Court in ***LPA No. 499 of 2018 (Ram Bechan Ram vs. The State of Bihar & ors.), reported in 2018(4) PLJR 516***. The learned counsel for the petitioner has further submitted that the impugned order dated 26.03.2021 has been passed on the basis of the recommendation made by the Block Supply Officer, Barhara, vide his enquiry report dated 01.02.2021, hence apparently the Sub-Divisional Officer, Sadar, Ara has not applied his independent mind, thus the impugned order dated 26.03.2021 stands vitiated on this score as well.

Per contra, the learned counsel for the State Shri



Upendra Pratap Singh, AC to Standing Counsel-4 has not disputed the position as is exiting in law.

I have heard the learned counsel for the parties and have gone through the materials on record from which it is apparent that the show cause notice dated 08.02.2021, issued by the Sub-Divisional Officer, Sadar, Ara 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 08.02.2021, issued by the Sub-Divisional Officer, Sadar, Ara is not only contrary to the provisions contained in Rule 27(ii) of the Bihar 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 same suffers from material legal infirmity on account of the show cause notice dated 08.02.2021 being contrary to law. Consequently, the impugned order dated 23.03.2021 passed by the Sub-Divisional Officer, Sadar, Ara, cancelling the PDS license of the petitioner, stands vitiated in the eyes of law, thus is quashed, however with liberty to the Sub-Divisional Officer, Sadar, Ara, Bhojpur to proceed afresh,



in accordance with law.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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