

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 16136 of 2021

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Satyanarayan Singh Yadav Son of Rambali Singh Yadav, resident of Gram
Panchayat Chaugain, Block Chaugain, P.S. Murar, Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Divisional Commissioner, Buxar.
2. The Divisional Commissioner, Buxar.
3. The District Magistrate, Buxar.
4. The Sub Divisional Officer, Dumraon, Buxar.

... .. Respondent/s

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Appearance:

For the Petitioner/s : Mr.Manini Jaiswal, Advocate

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

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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 04.09.2020 passed by the Sub-Divisional Officer, Dumraon, whereby and whereunder the license of the petitioner bearing Licensing No. 287 of 2016 has been cancelled. The petitioner has also prayed for quashing of the appellate order dated 12.08.2021 passed by the Collector-cum-District Magistrate, Buxar, whereby and whereunder the order dated 04.09.2020 passed by the Sub-Divisional Officer,



Dumraon has been upheld.

The short point raised by the learned counsel for the petitioner is that the show cause dated 29.03.2020 does 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 the judgment rendered by the learned Division Bench of this Court in ***LPA No. 499 of 2018 (Ram Benchan Ram vs. The State of Bihar & Ors), reported in 2018(4) PLJR 516.***

Per contra, the learned counsel for the respondent-State Shri 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 on record, this Court finds that the show cause notice dated 29.03.2020, issued by the Sub-Divisional Officer, Dumraon, does not mention about any proposal for cancellation of the license of the petitioner, hence admittedly no show cause 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 29.03.2020 issued by the Sub-Divisional Officer is not only contrary to the provisions contained under Rule 27(ii) of the Bihar Targeted PDS (Control) Order, 2016 but is also contrary to the law laid down by this Court in the case of Ram Bechan Ram (supra), hence the impugned order dated 04.09.2020 passed by the Sub-Divisional Officer, Dumraon suffers from material legal infirmity, hence is quashed. Since the original order dated 04.09.2020 passed by Sub-Divisional Officer, Dumraon has already stood quashed, the appellate order dated 12.08.2020, passed by the District Magistrate, Buxar has got no legs to stand, hence is also quashed. However, liberty is granted to the Sub-Divisional Officer, Dumraon to proceed afresh, in accordance with law, after giving fresh show cause notice in terms of Rule 27(ii) of the Bihar Targeted PDS (Control) Order, 2016.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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