

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16624 of 2021

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Rampujari Devi Wife of Rameshwar Singh Resident of Village -
Sherpur, P.S. - Jandaha, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector, Vaishali, District- Vaishali.
3. The Sub Divisional Officer, Mahua, District- Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Kumar Labh, Adv.

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 01-10-2021 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 for quashing the order dated 20.12.2012 passed by the Sub-Divisional Officer, Mahua whereby and whereunder the PDS license of the petitioner bearing license no. 62/2007 has been cancelled. The petitioner has further prayed for quashing of the appellate order dated 6.7.2021 passed by the



Collector, Vaishali in P.D.S. Appeal Case No. R-203/12-13 whereby and where under the appeal filed by the petitioner has been rejected.

The short issue raised by the learned counsel for the petitioner is that while the show cause notice dated 5.11.2012 was issued by the Sub-Divisional Officer, Mahua, no proposal for cancellation of licence in terms of Rule 27(ii) of the Bihar Targeted PDS (Control) Order, 2016 was mentioned.

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 SC-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 notice dated 05.11.2012, issued by the Sub-Divisional Officer, Mahua, 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 05.11.2012, issued by the Sub-Divisional Officer, Mahua, 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 Bachan Ram (supra), hence, the impugned order dated 20.12.2012 suffers from material legal infirmity on account of the show cause notice dated 05.11.2012 being contrary to law. Consequently, the impugned order dated 20.12.2012, passed by the Sub-Divisional Officer, Mahua, stands vitiated in the eyes of law, thus, is quashed, however, with liberty to the Sub-



Divisional Officer, Mahua to proceed afresh, in accordance with law. Since the impugned order dated 20.12.2012 passed by the Sub-Divisional Officer, Mahua has stood quashed, the appellate order dated 6.7.2021 has got no legs to stand, hence it is also quashed. However, the matter is remanded back to the Sub-Divisional Officer, Mahua to proceed afresh, in accordance with law.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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