

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16726 of 2019

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Shiv Kishore Tiwari Son of late Shankar Tiwary, Resident of Village-
Praduman Chapra, P.O. Bijdhari, P.S. Keshariya, District- East Champaran at
Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Consumer and Food and Protection Department
Government of Bihar, Patna.
3. The District Magistrate, East Champaran at Motihari.
4. The Sub-Divisional Officer, Chakiya, District- East Champaran at Motihari.
5. The Block Supply Officer, Chakiya District- East Champaran at Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.B.K. Manglam, Advocate Ms. Anita Kumari, Advocate
For the Respondent/s	:	Mr. Arvind Ujjawal (SC-4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 19-03-2021 The present petition has been filed for quashing the

order dated 09.07.2015 passed by the Sub Divisional
Officer, Chakiya, District-East Champaran at Motihari, whereby
and whereunder the P.D.S. shop license of the petitioner bearing
License No. 21 of 2007 has been cancelled, as also for quashing
the appellate order dated 25.06.2019 passed by the District
Magistrate, East Champaran at Motihari in Supply Case No. 54
of 2017.

The short point raised by the petitioner in support of
the present petition is that a show cause notice dated 15.06.2015



was issued by the Sub-Divisional Officer, Chakiya, District-East Champaran at Motihari to the petitioner, however, the same is contrary to the provisions contained in Rule 27 sub-clause(ii) of the Bihar Targeted P.D.S. Control Order, 2016 which stipulates that no order of cancellation of a license shall be made until the licensee has been given sufficient opportunity to state his case against the proposal of cancellation of his license. It is submitted that the show cause notice dated 15.06.2015 merely states that in case the show cause reply is not submitted, proceedings would be initiated for the purposes of cancellation of license of the petitioner, however, instead of initiating any proceedings, the Sub-Divisional Officer, Chakiya, District-East Champaran at Motihari has directly cancelled the license of the petitioner by the impugned order dated 09.07.2015, hence it is submitted that the order dated 09.07.2015 passed by the Sub Divisional Officer, Chakiya, District-East Champaran at Motihari is contrary to law, illegal and liable to be quashed.

Per contra, the learned counsel for the respondent-State has though opposed the submissions made by the learned counsel for the petitioner, however, he has not disputed the position as is existing in law.

Having regard to the facts and circumstances of the



case, having heard the learned counsel for the parties and having perused the materials available on record, this Court finds that the show cause notice dated 15.06.2015 issued by the Sub-Divisional Officer, Chakiya, District-East Champaran at Motihari is contrary to the provisions contained in Rule 27 sub-clause (ii) of the Bihar Targeted P.D.S. Control Order, 2016 inasmuch as the Sub-Divisional Officer, Chakiya, District-East Champaran at Motihari has failed to issue any show cause notice to the petitioner granting him opportunity to state his case against the proposal of cancellation of his license, i.e. in terms of Rule 27(ii) of the Bihar Targeted P.D.S. Control Order, 2016, thus the impugned order dated 09.07.2015 passed by the Sub-Divisional Officer, Chakiya, District-East Champaran at Motihari stands vitiated, hence is quashed. Since the original order dated 09.07.2015 passed by the Sub-Divisional Officer, Chakiya, District-East Champaran at Motihari has stood quashed, the appellate order dated 25.06.2019 passed by the District Magistrate, East Champaran at Motihari is also bound to fall and is accordingly set aside, however, with liberty to the respondent authorities to proceed afresh in accordance with law.

It is needless to state that the issue of restoration



of the license of the petitioner shall be subject to the outcome of the fresh proceedings to be initiated by the respondent authorities, against the petitioner herein.

The writ petition stands allowed on the aforesaid terms.

(Mohit Kumar Shah, J)

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