

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6744 of 2021

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Bijay Lakshmi @ Bijay Lakshmi Devi wife of Dinesh Sharma Resident of
Village- Nima, P.S.- Dhanarua, District- Patna Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna
2. The Collector, Patna
3. The Sub Divisional Officer, Masaurhi, Patna
4. The Block Supply Officer, Punpun, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Advocate
	:	Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondent/s	:	Mr.Lalit Kishore (Ag)

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

4 03-02-2022 The matter has been heard *via* video conferencing.

The present writ petition has been filed seeking quashing of the order dated 24.09.2019, passed by the Sub Divisional Officer, Masaurhi, Patna as also the appellate order dated 23.11.2020, passed by the District Magistrate-cum-Collector, Patna. It is stated that by the impugned order dated 24.09.2019, the P.D.S. licence of the shop of the petitioner bearing License no. 12 of 2016 has been cancelled and in fact, the appeal preferred by the petitioner has also been dismissed by the impugned order dated 23.11.2020.

The short point raised by the learned counsel for the



petitioner is that a bare perusal of the show cause notice dated 24.07.2018 would show that the Sub Divisional Officer, Masaurhi has not indicated about any proposal for cancellation of the license, thus 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 Public Distribution System (Control) Order, 2016***. It is also submitted that the present case is squarely covered by a judgment rendered by a co-ordinate Bench of this Court ***dated 10.07.2018***, passed in ***L.P.A. no. 499 of 2018 (Ram Bechan Ram v. The State of Bihar and others)***.

The learned counsel for the respondent State has not disputed the position, as is existing in law.

We have heard the learned counsel for the parties and gone through the materials on record, from which it is apparent that the show cause notice dated 24.07.2018, issued by the Sub Divisional Officer, Masaurhi 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 Public Distribution System (Control) Order, 2016***. Thus, the show



cause notice dated 24.07.2018 is not only contrary to the provisions contained in Clause **27(ii) of the Order, 2016** but also contrary to the law laid down in the case of ***Ram Bechan Ram v. The State of Bihar and others (supra)***, hence the impugned order dated 24.09.2019, passed by the Sub Divisional Officer, Masaurhi suffers from material legal infirmity, on account of the show cause notice dated 24.07.2018 being contrary to law. Consequently, the impugned order dated 24.09.2019, passed by the Sub Divisional Officer, Masaurhi, Patna stands vitiated in the eyes of law, hence is quashed. Since the original order dated 24.09.2019 has stood quashed, the appellate order dated 23.11.2020, passed by the Collector, Patna has also got no legs to stand, thus is also quashed. Nonetheless, we grant liberty to the Sub Divisional Officer, Masaurhi, Patna to proceed afresh, in accordance with law.

The writ petition stands allowed.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

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