

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10594 of 2021

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Dhananjay Kumar @ Dhananjay Kumar Singh Son of Krishna Paswan
Resident of village- Bharub, P.S.- Obra, District- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Food and Consumer Protection Department, Government of Bihar, Patna
2. The District Magistrate, Aurangabad
3. The Sub Divisional Officer, Daudnager, Dist.- Aurangabad
4. The Block Supply Officer, Obra, District- Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate
	:	Mr. Manoj Kumar Pandey, Advocate
For the Respondent/s	:	Mr.Arvind Ujjwal (SC)

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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)

2 07-02-2022 The matter has been heard *via* video conferencing.

The present writ petition has been filed for quashing of the order dated 01.10.2019, passed by the learned Sub-Divisional Officer, Daudnagar (Aurangabad) whereby and where under the PDS license of the petitioner bearing license no. 03/0/1999 has been cancelled. The petitioner has further prayed for quashing of the appellate order dated 18.01.2021, passed by the District Magistrate, Aurangabad, whereby and where under the appeal of the petitioner bearing P.D.S. Appeal Case No. 647 of 2019 has been rejected.

The learned counsel for the petitioner has raised a short



issue for consideration, to the effect that while issuing the show cause notices dated 15.04.2019 and 06.09.2019, the Sub-Divisional Officer, Daudnagar (Aurangabad) do 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 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 Bechan Ram vs. The State of Bihar & Ors.)***.

The learned counsel for the Respondent- State, Sri Arvind Ujjwal (AC 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 notices dated 15.04.2019 and 06.09.2019, issued by the Sub- Divisional Officer, Daudnagar, Aurangabad 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 notices dated 15.04.2019 and 06.09.2019, issued by the Sub- Divisional Officer,



Daudnagar, Aurangabad, are 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 Bechan Ram (supra)***, hence, the impugned order dated 01.10.2019, passed by the learned Sub-Divisional Officer, Daudnagar (Aurangabad) as also the appellate order dated 18.01.2021, passed by the District Magistrate, Aurangabad suffer from material legal infirmity on account of the show cause notices dated 15.04.2019 and 06.09.2019 being contrary to law. Consequently, the impugned order dated 01.10.2019, passed by the learned Sub-Divisional Officer, Daudnagar (Aurangabad) as also the appellate order dated 18.01.2021, passed by the District Magistrate, Aurangabad being unsustainable in the eyes of law, are quashed, however, the matter is remanded back to the Sub-Divisional Officer, Daudnagar (Aurangabad) with liberty to proceed afresh, in accordance with law.

The writ petition stands allowed.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

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