

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12130 of 2021

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Krishna Dev Prasad son of Late Saryu Prasad @ Suraju Mahto resident of
Village- Gariba, P.S./ Block- Rajauli, Post- Bahadurpur, District- Nawada,
PIN- 805125.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Dept., Govt. of Bihar, Old Secretariat, Patna- 800015.
2. The District Magistrate, Nawada.
3. The Sub Divisional Officer, Rajauli, District- Nawada.
4. The Block Supply Officer, Rajauli, District- Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sidhendra Narayan Singh, Advocate
For the Respondent/s : Mr. S. Raza Ahmad, AAG 5

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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 22-02-2022 Heard learned counsel for the parties.

The present writ petition has been filed for quashing of the order dated 03.07.2017 passed by the learned Sub-Divisional Officer, Rajauli whereby and where under the PDS license of the petitioner bearing license no. 212/2007 has been cancelled.

The learned counsel for the petitioner has raised a short issue for consideration, to the effect that while issuing the show cause notice/explanation dated 06.10.2016, the Sub-Divisional Officer, Rajauli did 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 Bachan Ram vs. The State of Bihar & Ors.).

The learned counsel for the Respondent-State 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 06.10.2016, issued by the Sub-Divisional Officer, Rajauli, 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 06.10.2016, issued by the Sub-Divisional Officer, Rajauli, 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 03.07.2017 passed by the Sub-Divisional Officer, Rajauli suffer from material legal infirmity on account of the show cause notice dated 06.10.2016 being contrary to law. Consequently, the impugned order dated 03.07.2017, passed by the Sub-Divisional Officer, Rajauli being unsustainable in the eyes of law, is quashed, however, the matter is remanded back to the Sub-Divisional Officer, Rajauli 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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