

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20446 of 2021

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Jitendra Singh S/o Thakur Singh Resident of village and Panchayat - Kotwa,
P.S.- Kotwa, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Collector, East Champaran at Motihari.
3. The Sub-Divisional Officer, Sadar, Motihari.
4. The Block Supply Officer, Kotwa, East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr.S. Raza Ahmad (Aag5)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 10-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

That the present writ application is being filed on behalf of the petitioner above named for setting aside the order contained in memo no. 620 dated 18.11.2021 by which the PDS license of the petitioner being license no. 02190093/2015 granted under the provisions of Bihar Targeted PDS Control Order, 2016 for carrying on business of Fair Price Shop has been cancelled on the basis of a show cause notice where there is no proposal of cancellation of license and further be pleased to restore the PDS license and supply of the petitioner.

It is submitted on behalf of petitioner that in the show cause notice dated 16.9.2021, issued by the SDO -cum- Licensing Authority, Sadar Motihari, petitioner was directed to submit his reply with respect to irregularities found in his PDS shop at the time of inspection made by the officials, however, in the show cause notice, there was no proposal for cancellation of PDS licence, as mandated under Rule 27 of Bihar Targeted P.D.S. (Control) Order, 2016, which reads as follows:-

“ 27. **Cancellation of License.**- (i) If a licensee violates any provision of this Order or fails to comply duties and responsibilities assigned to the license, his license shall be cancelled by the licensing authority by a written order, and such a cancellation of license shall not affect other actions initiated/initiable under the Essential Commodity Act, 1955 (Central Act 10 of 1955).

(ii) 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.

(iii) The cases of violation of the provisions of this Order shall be disposed of within two months, as far as possible, after coming in cognizance as for.”

Learned counsel for the petitioner has relied upon a judgment and order dated 4.2.2022 passed by Division Bench of this Honb’ble Court in **CWJC No.10079 of 2021 (Md. Hanif Ansari Vs. the State of Bihar & ors.)**.

Having regard to the facts and circumstances of the case, this Court finds that the show cause notice dated 16.9.2021

issued by the Sub-Divisional Officer, Sadar Motihari suffers from material illegality inasmuch as it is contrary to the provisions contained under Rule 27(ii) of the Bihar Targeted PDS (Control) Order, 2016, since no proposal regarding cancellation of license has been mentioned in the said show cause notice dated 16.9.2021, resulting in the petitioner being precluded from submitting his defence, leading to violation of the principle of natural justice, hence the impugned order dated 18.11.2021 passed by the Sub-Divisional Officer, Sadar Motihari cancelling the license of the petitioner, stands vitiated in the eyes of law, thus is quashed, however, the matter is remanded back to the Sub Divisional Officer, Sadar Motihari to proceed afresh, in accordance with law.

The writ petition stands allowed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.02.2022
Transmission Date	NA