

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 2233 of 2023

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Sharwan Choudhary S/o Mishri Choudhary, Resident of Village- Amawan,
Panchayat- Amawan, Block- Asthawan, P.S.- Bind, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The Collector, Nalanda at Biharsharif, Dist.- Nalanda.
3. The Sub Divisional Officer, Biharsharif, Dist.- Nalanda.
4. The District Supply Officer, Biharsharif, Dist.- Nalanda.
5. The Block Supply Officer, Islampur, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr Arvind Ujjwal, SC IV

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CORAM: HONOURABLE MR JUSTICE A. ABHISHEK REDDY

ORAL ORDER

3 22-04-2024

Heard the parties.

2 The present writ petition has been filed for the following relief (s):

“... .. for setting aside the order contained in Memo No 704/Aa dated 14.09.2019 by which the PDS licence of the petitioner being Licence No 57/2016 has been cancelled and further for quashing the order dated 04.02.2021 passed in Supply Case No 14/2019 by the learned Collector -cum- District Magistrate, Nalanda at Biharsharif by which he was pleased to dismiss the statutory appeal and affirmed the order dated 14.09.2019 passed by the licensing authority and further for quashing the order dated 08.09.2022 passed in Case No 74/2022 by the learned Commissioner, Patna Division, Patna by which he was pleased to dismiss the appeal and further be pleased to restore the PDS licence of the petitioner and also restore



the supply of the petitioner.”

3 Learned counsel appearing on behalf of the petitioner has stated that in the show cause notice issued by the Sub Divisional Officer, there is no proposal for cancellation of the licence. Learned counsel has stated that non-mentioning of the proposal for cancelling his licence is contrary to the provisions of Order 27 (ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016 (for brevity, **2016 Order**).

4 Learned counsel for the petitioner has relied on the judgment of the Full Bench passed in CWJC No 21202 of 2021 and analogous cases dated 26.09.2023 to buttress his contention that non-mentioning of the proposed action in the show cause notice is bad in law and contrary to Rule 27 (ii) of the 2016 Order.

5 Learned counsel has stated that in view of the above mentioned provisions of law and judgment relied by the petitioner, the impugned order may be set aside and the matter be remanded back to the authorities concerned for issuing a fresh show cause notice in terms of Order 27 (ii) of the 2016 Order and, thereafter, take necessary action.

6 Per contra, the learned counsel appearing on behalf



of the respondents has vehemently opposed the very maintainability of the writ petition and stated that the present writ petition is not maintainable as the petitioner has exhausted all the remedies and all the authorities have found that the petitioner has violated the provisions of the 2016 Order. Learned counsel has, therefore, prayed that this Hon'ble Court should dismiss the present writ petition.

7 This Hon'ble Court in CWJC No 21202 of 2021 and analogous cases has held as under:

“19. Accordingly, we answer the reference as under:-

It is mandatory for a licensing authority issuing a notice under Order 27 (ii) to a licensee to mention that there is a proposal for cancellation of his licence, failing which such notice cannot be treated to be a valid notice of giving sufficient opportunity to the licensee to state his case under Order 27 (ii) of the BTPDS Control Order.”

8 A perusal of the show cause notice issued to the petitioner does not reveal that there is any proposal of the action sought to be taken against the petitioner. Therefore, the same has to be held as bad, illegal, contrary to the provisions of Rule 27 (ii) of the 2016 Order and has to necessarily be set aside.

9 Having regard to the above facts and circumstances and the law laid down by this Hon'ble Court, the present writ petition is allowed. The impugned order passed by the



Reivisional Authority dated 08.09.2022, the order passed by the Appellate Authority dated 04.02.2021, as well as the order passed by the Sub Divisional Officer, Biharsharif dated 14.09.2019 are set aside.

10 The matter is remanded back to the Sub Divisional Officer for issuing a fresh show cause notice to the petitioner strictly in compliance with the provisions of Rule 27 (ii) of the 2016 Order and call for his explanation by giving him reasonable time.

11 On such show cause notice being served, the petitioner shall file his explanation within the stipulated time. On receipt of the explanation submitted by the petitioner, the authority concerned shall pass a reasoned order strictly in accordance with law duly taking into consideration the explanation submitted by the petitioner.

12 It is needless to mention that before passing any order, the petitioner shall be given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the petitioner.

13 With the above directions, this writ petition is



allowed to the extent indicated above.

(A Abhishek Reddy , J)

M.E.H./-

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