

Javadul Haque Son of Sirajuddin resident of village-Chhatargachh, P.S.-Pahar
Katha, District-Kishanganj

Versus

1. The State of Bihar and Ors Bihar.
2. The Principal Secretary, Food, Civil Supply and Consumer Protection Government of Bihar, Patna.
3. The Director, Food and Civil Supply Government of Bihar, Patna.
4. The District Magistrate-cum-Collector, Kishanganj
5. The District Supply Officer, Kishanganj.
6. The Sub-Divisional Officer, Kishanganj Sub-Division, Kishanganj
7. The Block Supply Officer, Pothiya Block, Kishanganj

... .. Respondent/s

For the Petitioner/s : Mr. Bajarangi Lal
For the Respondent/s : Mr.S. Raza Ahmad (AAG5)

2 30-01-2024 Heard the learned counsels for the parties.

2. This writ petition has been filed for seeking the following relief(s)

“ (i) For quashing/setting aside the order dated 18.12.2018 passed by the District Magistrate, Kishanganj in Supply Appeal No. 17/2015 where under and whereby appeal filed by the petitioner has been dismissed affirming the order passed by the SDO, Kishanganj passed in Supply Case No. 150/2015 dated 09.02.2015 by which PDS license of the petitioner has been cancelled.

(ii) For setting aside the order passed by the SDO in Case No. 150/2015 dated 09.02.2015 contained in Memo No. 94 dated 11.02.2015 where under and whereby the License of PDS shop of the petitioner bearing No.



68P/2007 has been cancelled with immediate effect.

(iii) For a direction upon the respondent to restore the PDS shop license of the petitioner with immediate effect and also for direction to restore the Fair Price Commodities to the shop of the petitioner.

(iv) And/ Or pass such order/orders as the Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

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 license. Learned counsel has stated that non-mentioning of the proposal for cancelling his license is contrary to the provisions of order 27(ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as ‘the Order, 2016’).

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 Control Order, 2016.

5. Learned counsel has stated in view of the above mentioned provisions of law and judgment relied by the



petitioner, the impugned order may be set aside and matter may be remanded back to the authorities concerned for issuing a fresh show-cause notice in terms of order 27(ii) of the Control Order, 2016 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 Control Order, 20017. Learned counsel has therefore prayed this Hon'ble Court to 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 license to mention that there is a proposal for cancellation of his license, 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 Control Order and has to necessarily set aside.

9. Having regard to the above facts and circumstances and the law laid down by this Hon'ble Court, the present CWJC is allowed. The impugned order passed by the Revisional Authority dated 18.12.2018 and the order passed by the Appellate Authority dated 09.02.2016 are set aside. The matter is remanded back to the Sub-Divisional Officer, Kishanganj for issuing a fresh show-cause notice to the petitioner strictly in compliance with the provisions of Rule 27(ii) of the Control Order, 2016 and call for his explanation by giving him reasonable time.

10. 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.

11. It is needless to mention that before passing any orders, 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.

12. With the above directions, this Writ Petition is allowed to the extent indicated above.

(A. Abhishek Reddy , J)

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