

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8298 of 2023

Ashok Kumar Singh Son of Late Ram Nagina Singh, Resident of Village-Sonhar, Police Station- Sheosagar, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar Department of Food and Consumer Affairs, Government of Bihar, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Magistrate-cum-Chairman, District- Rohtas at Sasaram.
4. The Sub Divisional Officer-cum-Licensing Authority, Sasaram, District-Rohtas.
5. The Block Supply Officer, Sheosagar, District- Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Tiwary, Adv.
For the Respondent/s : Mr. Arvind Ujjwal (Sc4)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

7 20-06-2024

Heard the learned counsels for the parties.

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

“(i) A writ in the nature of certiorari for setting aside the order bearing Memo No. 161 dated 08.02.2021 issued under the signature of Licensing authority-cum-Sub Divisional Officer, Sasaram, District- Rohtas whereby and where under without compliance of Rule 27(ii) of Bihar Targeted P.D.S. Control Order 2016 regarding proposed cancellation License, the P.D.S. licence of the petitioner P.D.S. shop has been cancelled which is contrary to statutory provisions of the Control Order 2016 and as such the impugned order is bad in the eye of law.

(ii) For setting aside the appellate order dated 11.03.2022 passed in Supply Appeal Case No. 03 of 2021 passed by Respondent District Magistrate, Rohtas whereby and where without under consideration the taking violation of into the statutory provision of the Control Order the appeal



has been dismissed in mechanical manner without giving specific reason and findings of his own rather affirm the order assed by the Licensing authority.

(iii) For setting aside the Revisional order dated 09.02.2023 passed in BTPDS Control Revision No. 329 of 2022 passed by the Learned Divisional Commissioner, Patna Division, Patna whereby and where under without taking in to consideration of the petitioner's case dismissed the case of petitioner in arbitrary manner dismissed the revision application of the petitioner without giving any specific reason affirm the both orders passed by the Licensing authority as well as order of appellate order.

(iv) To reinstate of the P.D.S. License of the petitioner and licensing authority directing to the allow the petitioner to lift the food grains and other items to the shop of the petitioner for smooth running of the P.D.S. shop.

(v) And any other order/orders, direction/ directions, writ/writs which may be petitioner entitled to.”

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 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, 2016. 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 licensee 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 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 09.02.2023, the order passed by the Appellate Authority dated 11.03.2022, as well as the order passed by the Sub-Divisional Officer, Sasaram, District-Rohtas dated 08.02.2021 are set aside. 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 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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