

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11909 of 2019

Kumari Sita Wife of Ashok Kumar Das Resident of Village and P.O.-
Salempur, P.S.- Amarpur, District- Banka. Petitioner/s
Versus

1. The State of Bihar .
 2. The Principal Secretary Food and Consumer Protection Department,
Government of Bihar, Old Secretariat, Patna.
 3. The Collector Banka.
 4. The Sub- Divisional Officer Banka.
 5. The Block Supply Officer Amarpur Block, Banka.
- Respondent/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Jha, Adv.
For the Respondent/s : Mr. Arvind Ujjwal (SC4)

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

2 16-01-2024 Heard learned counsels for the parties.

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

“That this is an application for issuance of appropriate writ or writs, order or orders and direction or directions in the nature of Mandamus for commanding and directing the respondents specially the respondent no.-4, the Sub-divisional Officer, Banka to give permission to the petitioner for lifting the food grain and distribute the same among the beneficiaries/card holders of Fair Price Shop of the petitioner which is held up by the respondent no.-4 since February, 2018 without any rhyme and reason. And/or issuance of any other consequential writ or writs in the facts and circumstances of the case.

3. Learned counsel appearing on behalf of the petitioner has stated that in the Show Cause Notices issued by the Sub-Divisional Officer, Banka 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 orders/show cause notices 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 notices 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 orders/show cause notices dated 16.11.2017 and 20.11.2017 passed by Sub-Divisional Officer, Banka are set aside. The matter is remanded back to the Sub-



divisional Officer, Banka 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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