

Subodh Kant Jha Son of Late Vishwambhar Jha, resident of village -
Lamaunia, P.O. - Kaithwalia, P.S. - Sugauli, District - East Champaran.

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supply, Government of Bihar, Patna.
2. The Divisional Commissioner, Muzaffarpur.
3. The Collector-cum-District Magistrate, East Champaran, Motihari.
4. The Sub-Divisional Officer, Sadar, Motihari.
5. The Assistant District Supply Officer, Sadar, Motihari.
6. The Block Supply Officer, Sugauli.

... .. Respondent/s

For the Petitioner/s : Mr. Jitendra Kumar, Adv.
For the Respondent/s : Mr. Arvind Ujjwal (SC 4)

5 19-03-2024 Heard the learned counsel for the parties.

“(i) For issuance of any appropriate writ or writs, rule or direction especially in the nature of certiorari quashing the memo no. 1137 dated 23.11.2020 passed by Sub-divisional Officer, Sadar, Motihari, whereby and where under PDS License No. 108/2011 has been cancelled with immediate effect further prayer for quashing the memo no.2881 dated 27.12.2021 whereby and where under PDS Appeal No. 40/2020 filed by the petitioner has been dismissed by the learned Collector-cum-District Magistrate, East Champaran, Motihari and affirmed the order dated 23.11.2020 passed by the learned SDO, Sadar, Motihari.

(ii) For issuance of any appropriate



writ or writs, rule or direction especially in the nature of mandamus directing the respondent authorities to restore the PDS License No. 108/2011 and allow the petitioner to run his PDS shop accordance with law.

(iii) For issuance of any appropriate writ or writs, rule or direction as your lordship may deem fit and proper to the facts and circumstances of the case as well as for which the petitioner may be found entitled there too.

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, 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 orders passed by the Sub-divisional Officer, Sadar, Motihari in Memo No. 1137 dated 23.11.2020 as well as Memo No. 2881 dated 27.12.2021 whereby and whereunder PDS Appeal No. 40/2020 filed by the petitioner has been dismissed by the learned Collector-cum-District Magistrate, East Champaran, Motihari 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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