

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14821 of 2024

Hira Lal, aged about 76 years, Male, Son of Late Jit Lal Saw, Resident of Village- Talikthakurbari, Par Hatia, Nimtar, Block- Hisua, P.S.- Hisua District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate-cum-Collector, Nawada.
4. The Sub-Divisional Officer, Nawada Sadar.
5. The Block Supply Officer, Hisua, Nawada

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Akash Chaturvedi, Advocate.

For the Respondent/s : Mr. Standing Counsel (4).

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

2 22-10-2024 Office Objection is overruled.

2. Heard the learned counsels for the parties.

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

“(i) For issuance of writ in the nature of certiorari for quashing of order dated 24.03.2021 passed in Supply Revision Case No. 15/2019 by the Divisional Commissioner, Magadh Division, Gaya whereby without considering the Revision Application of the petitioner in a very mechanical manner has rejected which is wholly illegal and arbitrary.

(ii) For issuance of writ in the nature of certiorari for quashing the order dated 24.10.2018 issued vide memo No. 628 (PB) dated 24.10.2018 passed by the District Magistrate-cum-Collector, Nawada whereby the appeal preferred against the order of cancellation has been rejected without considering the legal position as well as in a very mechanical



manner has rejected the appeal of the petitioner without assigning any cogent reason for has dissatisfaction which is illegal, arbitrary and without jurisdiction.

(iii) For issuance of writ in the nature of certiorari for quashing of order dated 01.09.2017 issued vide Memo No. 09 dated 01.09.2017 passed by Sub-Divisional Officer, Nawada Sadar whereby the license issued to the petitioner under the public distribution system has cancelled without granting any opportunity of being heard and in complete violation of principles of natural justice being wholly illegal arbitrary and without jurisdiction.

(iv) For issuance of writ in the nature of declaration holding the order passed by the S.D.O. Nawada Sadar is arbitrary and bad in law and no enquiry was conducted nor any report was prepared nor served upon the petitioner and without granting opportunity of rebuttal the impugned action has been taken cancelling the PDS license of the petitioner as the same has been passed without any basis and the impugned action is wholly without jurisdiction and has been passed in gross violation of Principles of Natural Justice.

(v) For issuance of writ in the nature of mandamus directing the respondent to restore the license granted to the petitioner under the Public Distribution System and resumes to supply of food grains with immediate effect.”

4. 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’).

5. 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.

6. 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.

7. 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.

8. 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. ”

9. 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.

10. 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 dated 24.03.2021 passed by the Divisional Commissioner, Magadh Division, Gaya, the order dated 24.10.2018 passed by the District Magistrate-cum-Collector, Nawada and the order dated 01.09.2017 passed by the Sub-Divisional Officer, Nawada Sadar 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.

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 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.

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

(A. Abhishek Reddy, J)

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