

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15336 of 2022

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Manoj Kumar Son of Late Raja Ram Singh, Resident of Village- Amokhari,
Bargoan, Police Station- Sirdala, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Divisional Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Nawada.
4. The Sub-Divisional Officer, Rajauli, Nawada.
5. The Deputy Collector Land Reforms, Rajauli, Nawada.
6. The Block Development Officer, Sirdalla, Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Navendu Kumar, Adv.
For the Respondent/s : Mr. Arvind Ujjwal, SC-4

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

2 09-02-2024 Heard the learned counsels for the parties.

2. The present writ application has been filed for the
following relief(s):

*“(i) For setting aside/quashing the order
contained in Memo No. 3735 dated
29.11.2013 passed by the Sub-Divisional
Officer, Rajauli, Nawada, by which the
license of the petitioner under the Public
Distribution System has been cancelled.*

*(ii) For setting aside/quashing the order
contained in Memo No. 631 (PB) dated
24.10.2018, passed by the District
Magistrate-cum-Collector, Nawada, by*

which the appeal preferred by the petitioner against the Memo No. 3735 dated 29.11.2013 passed by the Sub-Divisional Officer, Rajauli, Nawada was dismissed.

(iii) For setting aside/quashing the order dated 21.07.2022 passed in Supply Revision No. 730/2018 by the Divisional Commissioner, Gaya bearing Supply Revision No. 730/2018 by which he has failed the order contained in Memo No. 631 (PB) dated 24.10.2018 passed by the District Magistrate-cum-Collector, Nawada and also the order contained in Memo No. 3735 dated 29.11.2013 passed by the Sub-Divisional Officer, Rajauli, Nawada.

(iv) For setting aside/quashing the show cause notice contained in the Memo No. 3331 dated 25.10.2013 under the signature of the Sub-Divisional Officer, Rajauli by which the petitioner was asked to show his cause within two days that why an FIR be not lodged against him after canceling his PDS license in view of the charges of black marketing.”

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 canceling 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 C.W.J.C. 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 be necessarily set aside.

9. Having regard to the above facts and circumstances and the law laid down by this Hon'ble Court, the present C.W.J.C. is allowed. The impugned order passed by the Revisional Authority dated 21.07.2022, the order passed by the Appellate Authority dated 24.10.2018, as well as the order passed by the Sub-Divisional Officer, Rajauli, Nawada dated 29.11.2013 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, the present writ application is allowed to the extent indicated above

(A. Abhishek Reddy, J.)

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