

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15618 of 2024

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Jaynath Paswan, S/o Shri Ramlakhan Paswan, R/o Ward No. Village-Mabbi
Belauna, P.O.-Lalshahpur, P.S.-Mabbi Belauna, District-Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Food and Civil Supply
Government of Bihar, Patna.
2. The Principal Secretary Food and Civil Supply Government of Bihar, Patna.
3. The Sub Divisional Officer, Sadar, District-Darbhanga.
4. The Block Supply Officer, Sadar, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Alok Ranjan, Adv.
For the Respondent/s : Mr. Gyan Prakash Ojha, Government Advocate 7

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

2 29-11-2024 Heard the learned counsels for the parties.

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

“1. For quashing of the order passed by the
Sub divisional Officer Sadar Darbhanga,
dated **23.08.2024** as contained in **memo no.
530 dated 31.08.2024**, whereby and where
under the Fair Price shop of the petitioner
under Public Distribution system bearing
License no. 43/18 has been cancelled and
also to recover the amount of food grains
pursuant to the Bihar Public Demand
Recovery Act, without considering the reply
of the petitioner by a illegal, arbitrary,
cryptic, unreasoned, unexplained order and
the same is in violation of principals of
Natural Justice and also in contravention of
statutory provisions of the act and not
sustainable in the eyes of law and the same is
fit to be quashed.



II. For quashing of the showcause notices as contained in memo no. 369 dated 24.06.2024 and memo no. 406 dated 10.07.2024 which was the genesis of entire proceeding initiated as against the petitioner which does not contain statutory and mandatory condition of the control order 2016, proposal of punishment, which is in complete violation of sub rule (ii) of Rule 27 of the act and in contravention and in teeth of law as laid down by Hon'ble Full bench in case CWJC NO. 21202 OF 2021 dated 26.09.2023.

III). Further for direction to the respondents to restore the PDS shop license forthwith and supply to the Fair Price shop of the petitioner under Public Distribution system bearing License no. 43/18.

IV). For any other appropriate relief/reliefs to which the petitioner is found entitled in the facts and circumstances of this case.”

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 that 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 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 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 Sub-Divisional Officer, Sadar, Darbhanga dated 23.08.2024, as contained in memo no. 530 dated 31.08.2024, is 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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