

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.498 of 2024

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Soti Patel @ Soti Rai, Son of Ramfal Patel, Resident of Village- Gangapur
Lutna Tola, P.S-Alamnagar, District- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna.
2. The Principle Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna.
3. The Director, Food and Civil Supply Department, Govt. of Bihar, Patna.
4. The Divisional Commissioner, Kosi Division, Saharsa.
5. The Collector-Cum-District Magistrate, Madhepura, District- Madhepura.
6. The Sub Divisional Officer, Udakishunganj, District- Madhepura.
7. The Block Supply Officer, Alamnagar, District- Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Adv
For the Respondent/s : Mr. Standing Counsel (26)

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

2 05-02-2024 Heard the learned counsels for the parties.

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

“(i) for quashing the order dated 25.06.2023 passed by Divisional Commissioner, Kosi Division, Saharsa in Supply Revision Case No. 76/2019 by which rejected the revision application on the ground petitioner has been violated the Rule 14 and 20 of Bihar Targeted Public Distribution System (Control) Order 2016.
(ii) For quashing the order dated 02.07.2018 passed by Collector-Cum-District Magistrate, Madhepura in PDR License Appeal Case No. 05/2017 by which Learned Collector has been pleased to reject the



appeal an affirmed the order dated 04.02.2017 passed by Sub Divisional Cum Licensing Authority, Udakishunganj by which License of the petitioner cancelled for violation of the 14 (i) (iv) (v) (vii) (ix) (x) and section 20 (i) (kha) (gha) (anga) of Bihar Targeted Public Distribution (Control) Order 2016.

(iii) Further quashing the order dated 04.02.2017 passed by Sub Divisional Of-ficer, Udakishunganj, Madhepura by which cancelled the PDS license No.35 2007 without supplying enquiry report provided under the Rule 27 (ii) of Biha Targeted Public Distribution (Control) Order 2016

(iv) Further give direction to the respondents reinstate the PDS License No.35/ 2007.

(v) For further give other legal consequential benefit to the petitioner.”

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, 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 Revisional Authority dated 25.06.2023, the order passed by the Appellate Authority dated 02.07.2018, as well as the order passed by the Sub-Divisional Officer, Udakishunganj dated 04.02.2017 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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