

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11673 of 2022

=====

Suresh Mahto S/o Late Rajendra Mahto, Resident of Village- Srinath Param,
Panchayat- Sormar, P.S.- Chak Mehshi, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The Commissioner, Darbhanga Division, Darbhanga.
3. The Collector-cum-District Magistrate, Samastipur.
4. The Sub Divisional Officer-cum-Licensing Authority, Samastipur.
5. The Block Supply Officer, Kalyanpur, District- Samastipur,

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate.

For the Respondent/s : Mr. Arvind Ujjwal (SC 4)

=====

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

6 01-07-2025 Heard the learned counsels for the parties.

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

“....The present writ application is being filed on behalf of the sole petitioner above named for setting aside the order contained in Memo No. 676 dated 25.11.2016 passed by the Learned SDO Samastipur by which he was pleased to cancel the PDS license of the petitioner being license No. 229/2008 and further for quashing the order dated 17.01.2018 passed in PDS Appeal Case No. 103/2016 by which the learned Collector, Samastipur was pleased to dismissed the appeal and further for quashing the order dated 26.11.2019 passed in PDS Revision Case No. 06 of 2018 by which the learned Commissioner, Darbhanga Division, Darbhanga was pleased to dismiss the revision and further be pleased to restore the PDS license as well as supply of 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 licensee 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 CWJC is allowed. The impugned order dated 25.11.2016 passed by the Sub-Divisional Officer-cum-Licensing authority, Samastipur, order dated 17.01.2018 passed by the Collector-cum-District Magistrate, Samastipur and the order dated 26.11.2019 passed by the Commissioner, Darbhanga Division, Darbhanga 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)

shakir/-

U			
---	--	--	--

