IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17221 of 2023

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Md. Arif Alam Son of Md. Sallauddin, resident of Village-Isanagar, Naya Nagar, Ward No. 22, P.S.-Phulwari Sharif, District Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna.
2. The District Magistrate-cum-Collector, Patna.
3. The Sub Divisional Officer, Patna Sadar, Patna.
4. The Supply Inspector, Ward No. 22, Phulwari Sharif, Nagar Parishad, Phulwari Sharif, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kr. Adv,
	:	Mr. Sanjeeb Kumar Sanju, Adv.
	:	Mr. Bhaska Shandilya, Adv.
For the Respondent/s	:	Mr. Arvind Ujjwal (Sc 4)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

2 05-05-2025 Heard the learned counsel for the parties.

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

> "That this is an application for issuance of a proper writ/ writs, order/ orders, direction/ directions to the respondents to quash the order dated 22.11.2021 contained in Memo No. 733 issued under the signature of Sub-Divisional Officer, Patna Sadar by which license No. 18/2018 issued in the nature of the petitioner with regard to Public Distribution System Ward No. 22, Phulwari Sharif has been cancelled with immediate effect without considering the show cause and explanation and also for quashing the order dated 23.12.2022 passed by the District Magistrate-cum-Patna by which the appeal No. 44/2021-22/ preferred by the petitioner

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> against the order of S.D.O. Sadar Patna dated 22.11.2021 has been affirmed and the appeal has been dismissed without considering the merit and facts of the case.
> And
> Pass such other order/ orders which may deem fit and proper in the fact and circumstances of the 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 iLearned counsel for the Opposite Party(s) has stated that as against the order passed by this Court in CWJC No. 5492 of 2023 dated 30.08.2023, they have preferred an LPA No. 1210 of 2023 and the same is pending adjudication.

2. Having regard to the same, post this matter after the disposal of the abovesaid LPA.n law and contrary to Rule 27(ii)

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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 a remedy of filing revision under 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. "

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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 Appellate Authority dated 23.12.2022, as well as the order passed by the Sub-Divisional Officer, Patna Sadar, Patna dated 22.11.2021 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

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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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