

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11389 of 2017

1. Shyam Kumar
 2. The State of Bihar, through the Principal Secretary, Department, of Food and Consumers Protection,
 3. The District Magistrate, Darbhanga.
 4. The Sub Divisional Officer, Sadar Darbhanga.
 5. The Block Supply Officer, Hanuman Nagar, Darbhanga,
- Petitioner/s
- Versus
- The State Of Bihar and Ors
- Respondent/s
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Appearance :

For the Petitioner/s : Mr. Anand Kr. Ojha, Adv.
Mr. Ashok Kumar Karna, Adv.
Mr. Abhishek Raj, Adv.
For the Respondent/s : Mr. Bijoy Kr. Sinha, Adv. AC to AAG-5

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 27-03-2023

One of the submissions of the learned counsel for the petitioner is that the show-cause issued to the petitioner on 13th of April, 2015 mentioned about five different shortcomings and discrepancies found during inspection conducted on 07.04.2015, whereas the S.D.O. Sadar, Darbhanga, while passing order dated 08.12.2015, has taken into consideration several other discrepancies including allegations levelled by the Block Supply Officer, Hanuman Nagar dated 08.09.2015 of not depositing the amount for the distribution under Antyodaya & PHH.



Learned counsel submits that no show-cause or opportunity was provided with regard to the other allegations which have been made as a basis for cancellation of license and, therefore, the action of cancellation is violative of Rule 27(2) of the Rules of the order which is PDS Control Order, 2016 and the earlier PDS Control Order, 2001.

Learned counsel for the petitioner has further assailed the order dated 16.06.2017, passed in P.D.S. Appeal No. 05 of 2016. He submits that the aforesaid submissions have not been considered by the appellate authority too.

I have considered the submissions. Rule 27(2) of the Control Order, 2016, which is *pari materia* to the earlier provision under the control order, 2001, necessitates of giving a fair opportunity to the licensee before cancelling his license. The reasons must be set forth in the show-cause notice clearly outlining the various grounds on which the action under the Rules is proposed. In the absence of the grounds, the concerned licensee would be deprived of meting out with the allegations as he would not be in a position to defend himself. The action would, therefore, be in violation of principles of natural justice apart from being in violation of Rule 27(2) of the Rules (supra).

Keeping in view thereto, the orders impugned are not



sustainable in law and are, accordingly, quashed and set aside.

The license cancelled by the S.D.O. Sadar, Darbhanga, vide order dated 08.12.2015 stands restored, however, it would not preclude the concerned S.D.O. to conduct a fresh inspection and pass orders, if so required.

The writ petition is disposed of with the above observations and directions.

(Sanjeev Prakash Sharma, J)

Gauravkr/-
Item No. 60

AFR/NAFR	
CAV DATE	
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