

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18729 of 2021

=====

Krishna Prasad, aged about 65 years, Gender- Male, Son of Late Yamuna Prasad Resident of Village- Nanauri, Panchayat- Hulaschakvir, P.S.- Dhanarua, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate-Cum- Collector Patna.
3. The Licensing Authority-Cum- Sub- Divisional Officer Masaurhi, Patna.
4. The Circle Officer Dhanarua, District- Patna.
5. The Block Supply Officer Dhanarua, District- Patna.

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Choudhary, Sr. Adv. with
Mr. Bhola Kumar, Adv.
For the Respondent/s : Mr. S Raza Ahmad AAG-5

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

2 29-04-2022 This matter has been taken up for hearing online because of *COVID-19* pandemic restrictions.

2. The petitioner has alternative remedy of appeal against the impugned order dated 25-09-2021 passed by the Sub Divisional Magistrate, Masaurhi -cum- Licensing Authority whereby the petitioner's license to run a Fair Price Shop has been cancelled in exercise of powers under the provisions of the Bihar Targeted Public Distribution System (Control) Order,



2016 (for short 'the Control Order, 2016'). Before invoking writ jurisdiction of this Court, the petitioner has not availed the said remedy.

3. Mr. Ashok Kumar Choudhary, learned senior counsel appearing on behalf of the petitioner has submitted that there being apparent breach of principles of natural justice and the action of the respondents being tainted with *mala fide*, this Court treating the petitioner's case to be an exceptional one should entertain this writ application despite there being alternative remedy of appeal. We are not convinced with the said submission. The arguments which have been made on behalf of the petitioner are available for him to advance before the Appellate Authority.

4. In such view of the matter, we dispose of the writ application with an observation that the petitioner shall be at liberty to question the legality of the impugned order of the Licensing Authority by preferring an appeal. If such an appeal is preferred within four weeks from today, considering the circumstance that the petitioner approached this Court soon after passing of the impugned order by filing present writ application, it is observed that the Appellate Authority shall be under obligation to decide petitioner's appeal on merit after condoning



the delay keeping in mind the fact that the petitioner was pursuing his remedy before this Court by filing present writ application within the period prescribed under the provision of Control Order, 2016.

5. The application stands disposed of.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

shyambihari/-

U			
---	--	--	--

