

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12749 of 2022**

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Sarswati Devi W/o Sri Ram Narayan Yadav, Resident of Ward No. 02,  
Village- Kharaj, Post Chhachha Kheraj Dhuria, P.S. Keoti, Via Keoti Ranway,  
District- Darbhanga, Pin Code- 847337.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. Additional Secretary, Food and Consumer Protection Department, Bihar, Patna.
3. The Collector, Darbhanga.
4. The Licensing Officer-cum- Sub- Divisional Officer, Sadar, Darbhanga.
5. The District Supply Officer, Darbhanga.
6. The Block Supply Officer, Keoti, Darbhanga.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Kaushalesh Choudhary, Advocate  
For the Respondent/s : Mr. S. Raza Ahmad, AAG-5

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

**ORAL JUDGMENT**

**Date : 17-03-2023**

Learned counsel for the petitioner submits that the impugned order is in violation of the Section 27(ii) of the **Bihar Targeted Public Distribution System (Control) Order, 2016** (hereinafter referred to as 'the order, 2016), as the copy of the enquiry report was not made available to the petitioner and therefore sufficient opportunity has not been provided.



This Court has considered the submission of the petitioner. Keeping in view the provisions of Rule 32 of the Order, 2016, an appeal lies against the order passed under Rule 27 of the Rules, 2016. Further, in terms of Rule 32(vi) of Order, 2016, revision also lies against the order passed by the appellate authority to the Divisional Commissioner. Thereafter, in terms of Rule 32(vii) of the Order, 2016 a further appeal would also lie to the Principal Secretary.

Keeping in view the remedy of appeal available against the impugned order to the petitioner, this Court is of a firm view that the present writ petition would not be maintainable at this stage. All the grounds raised in the present writ petition would be taken in appeal before the appropriate authority.

Granting such liberty to the petitioner, the present writ petition is dismissed as not maintainable.

After dictation of the aforesaid part of the judgment, learned counsel for the petitioner has strongly objected to the disposal of the writ petition with aforesaid liberty stating that a judicial discipline has to be maintained by this Court and a judgment passed by the Division Bench should be respected and followed by this Court. He has relied on the judgment dated 11<sup>th</sup>



of August, 2022, passed by a Division Bench of this Court in **C.W.J.C. No. 10953 of 2021 (Rajeev Ranjan Kumar Vs. the State of Bihar & Ors.)**. While deciding the writ petition, the court noticed that the petitioner raised total three grounds therein and also the observations of the Division Bench that if the copy of the enquiry report has not been furnished to the petitioner, “for the said reason, the Division Bench has not taken any exception to the petitioner having approached this Court directly after the order of cancellation passed without availing of the alternative remedy of preferring an appeal against such order”.

I have considered the aforesaid judgment. The aforesaid judgment is found to be an exception to the original rule in the facts of that case and the same cannot be said to be a binding precedent. In terms of the judgment passed by the Supreme Court in the case of **Official Liquidator Vs. Dayanand & Ors.**, reported in **2008 (10) SCC 1**, this Court is bound to follow the law laid down by Division Bench alone.

This Court also finds that in the present case, an FIR was registered against the petitioner, who is a P.D.S. dealer under Section 7 of the Essential Commodities. Act, 1955, as mentioned in paragraph no. 5 of the petition. Rule 28 of the



Order, 2016 talks about action to be taken.

In such circumstances, the petitioner has the remedy, as mentioned above, to raise all the grounds before the appellate authorities.

The writ petition is, accordingly, dismissed with aforesaid liberty to the petitioner.

**(Sanjeev Prakash Sharma, J)**

Amrendra/-  
Item No. 7

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