

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10959 of 2023**

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Md. Rafique Alam, son of Haji Saibur Rahman, resident of Mohalla Hajipur ward No. 11, P.S. - Katihar Town, District - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Food and Consumer Protection Department, Patna.
2. The District Magistrate, Katihar, District Katihar.
3. The Licensing Authority-cum-Sub-Divisional Officer, Katihar, District - Katihar.
4. The District Supply Officer, Katihar, District Katihar.
5. The Block Supply Officer, Katihar, District Katihar.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Md. Rashid Alam,Adv  
For the Respondent/s : Mr.S.Raza Ahmad ( AAG 5 )

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

4      05-12-2023                      Learned counsel appearing on behalf of the petitioner has stated that the authorities concerned without considering the explanation submitted by the petitioner has passed the impugned order. Further learned counsel has stated that the Sub-Divisional Officer himself has inspected the premises of the petitioner on 17.04.2023 and thereafter, a show cause notice was issued to the petitioner on 25.04.2023. Learned counsel states that without there being any independent witness or conducting any Panchnama, the Sub-Divisional Officer has made allegations against the petitioner. In the show cause notice, it is stated that the quantity of approximately 176.25 quintal rice and 29.72



quintal wheat was found to be less. Learned counsel has stated that without giving the details of the quantity received by the petitioner from time to time, the authorities concerned have simply made a wild allegation without being substantiated by any independent witness or conducting any Panchnama. Even though, the petitioner has submitted his explanation to the show cause notice, the Sub-Divisional Officer has passed the impugned order in a mechanical manner without advertng to the explanation submitted by the petitioner. Learned counsel, therefore, prays this Hon'ble Court to set aside the impugned order and allow the present writ petition.

2. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and has stated that the petitioner has an alternative and efficacious remedy of filing an appeal before the District Magistrate against the order passed by the Sub-Divisional Officer. Learned counsel has stated that the authority concerned duly taking into consideration the shortage of stock in the PDS shop of the petitioner has cancelled the licence and the same does not call for any interference and prays this Hon'ble Court to dismiss the present writ petition.

3. From perusal of the show cause notice issued to



the petitioner and the impugned order passed by the authority concerned it appears that the Sub-Divisional Officer himself has conducted the surprise inspection of the shop of the petitioner. Even though in the show cause notice, it is stated that there was shortage of 176.25 quintal rice and 29.72 quintal wheat, no details of the quantity received by the petitioner has been mentioned. In the show cause notice, it is not stated as to whether the petitioner has failed to distribute the food grain to the consumers/beneficiaries or not. Moreover, it is seen that the authority has not drawn any Panchnama nor any independent witness has been examined. Moreover, it is not the case of the respondents-authorities that they have received any complaint from the beneficiaries/consumers stating that they are receiving less quantity of commodities/grains. The order passed by the Sub-Divisional Officer is cryptic and absolutely no reasons have been given to substantiate the allegations made against the petitioner for cancelling his licence. The authorities concerned ought to have conducted Panchnama through an independent witness. Further as seen from the record, there is no inquiry report submitted by the Block Supply Officer even though it is stated that the Block Supply Officer was also present at the time of inspection. The allegation made against the petitioner does



not inspire any confidence in the manner in which the show cause notice and the impugned order has been passed. Therefore, the impugned order dated 24.05.2023 (Annexure 1) is set aside. In case, the authorities concerned wants to take any action, the respondents shall issue a fresh notice giving full particulars of the allegations made against the petitioner and then take necessary action in accordance with law.

4. With the above direction, the present petition stands allowed.

**(A. Abhishek Reddy , J)**

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