

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19592 of 2019

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Md. Akhtar Hussain, S/o Salimuddin, R/o Village- Mouzabari, Block- Baisa,
P.O. and P.S.- Routa, District- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply Government of Bihar, Patna.
2. The Principal Secretary, Food and Civil Supply, Bihar, Patna.
3. The District Magistrate, Purnea.
4. The District Supply Officer, Baisa, Purnea.
5. The Sub-Divisional Officer, Baisi, Purnea.
6. The Block Supply Officer, Baisi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Adv. Ms. Disxha Kuamri, Adv. Mr. Kumar Rajeev, Adv. Mr. Rajiv Ranjan, Adv.
For the Respondent/s	:	Mr. Anisul Haque, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 19-09-2023

Heard the parties.

2. The present writ petition is filed for the following
relief(s):-

*“1. For quashing the order dated as contained in **memo no. 227 dated 18.01.2019** issued and passed by the Sub divisional Officer Baisi, whereby and where under the learned Sub divisional Officer Baisi, has cancelled the Fair Price shop of the petitioner (Petitioner is the Chairman of the PACS) under Public*



Distribution system bearing License no. 42/2016, without considering the show-cause reply of the petitioner, only on the basis of one day closer of the shop and on the basis of recommendation made by the Block supply officer, Baisi.

II. Further for direction to the respondents to restore the license and also to restore the supply to the Fair Price shop of the petitioner under Public Distribution system bearing License no. 42/201.”

3. Learned counsel appearing on behalf of the petitioner states that Sub-Divisional Magistrate without any independent application of mind has passed the impugned order based solely on the opinion of Block Supply Officer. Learned counsel has stated that Sub-Divisional Officer while passing the order has not adverted to the explanation submitted by the petitioner. The impugned order reveals that several new irregularities were alleged against the petitioner that were not adverted to in the show cause notice. That the Sub-Divisional Officer has taken new grounds for passing the impugned order which were not alleged in the original show case notice, therefore, prays this Hon'ble Court to set aside the impugned order and remand the matter back to the authority concerned for



passing orders afresh duly taking into consideration the explanation submitted by the petitioner.

4. 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 under Rule 32(iii) of the Bihar Targeted Public Distribution System (Control) Order, 2016. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition directing the petitioner to approach the Appellate Authority.

5. A perusal of the impugned order passed by the Sub-Divisional Officer, Baisi, Purnea shows that authority concerned has not adverted to the explanation submitted by the petitioner. Moreover, the authorities has taken new grounds for challenging the PDS license of the petitioner which were not mentioned in the show cause notice. Therefore on this ground alone, the impugned order is liable to be set aside and the matter remanded back to the concerned authority for passing orders afresh duly taking into consideration the explanation submitted by the petitioner.

6. Having regard to the above, the impugned order



dated 18.01.2019 is set aside and the matter remanded back to the Sub-Divisional Officer for passing orders afresh duly taking into consideration the explanation submitted by the petitioner

7. It is needless to mention that before passing any order the petitioner shall be put on notice and given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possibly preferably within a period of eight weeks from the date of receipt of the copy of this order. Any order passed shall be communicated to the parties.

8. Accordingly, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

Bhardwaj/-

AFR/NAFR	
CAV DATE	
Uploading Date	23.09.2023.
Transmission Date	

