

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3759 of 2024**

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Ruby Kumari W/o Late Amit Kumar, Resident of Village- Janipur Nagma,  
P.S. - Janipur, District - Patna at present residence of Village - Kalawanchak,  
P.S. - Punpun, Gram Panchayat- Kewada, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, Patna.
3. The Sub-Divisional Officer, Punpun, Patna.
4. The Block Supply Officer, Punpun, Dist. Patna.

... .. Respondent/s

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**Appearance :**

|                      |   |                                  |
|----------------------|---|----------------------------------|
| For the Petitioner/s | : | Mr. Dhananjaya Nath Tiwari, Adv. |
| For the Respondent/s | : | Mr. Sunil Kr. Mandal, SC3        |
|                      | : | Mr. Arjun Prasad, AC to SC3      |

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

5      10-05-2024                      Heard the learned counsel for the parties.

The present writ petition has been filed for the  
following reliefs:-

*“That the present writ application is being filed on behalf of the petitioner for issuance of appropriate writ/writs, order/orders, direction/directions in the nature of certiorari for quashing the order contained in Memo No. 437/Aa dated 27.12.2023 passed by the Learned Sub-Division Officer Masaurhi-cum-Licensing authority, cancelled the license of the petitioner being License No. 39/2016 even without supplying the copy of the statement of the consumers and further be pleased to restore the license and supply of the petitioner.”*



3. Learned counsel for the petitioner has assailed the order of cancellation on the following ground.

*i. that the inspection of the shop has taken place on 11.10.2023 at around 3:00 PM that is beyond the working orders of the PDS Shop.*

*ii. that the names of the beneficiaries/complainants has not been furnished nor their statements to the petitioner.*

*iii. though the petitioner has submitted her explanation, the authority concerned by single word has rejected the same stating that the same is not satisfactory.*

4. Learned counsel for the petitioner has stated that in the month of October, the working hours of the PDS Shop as per the guidelines issued by the Government is from 08:00 AM to 02:00 PM. Learned counsel has relied on the judgments of this Hon'ble Court passed in CWJC No. 15855 of 2023 dated 07.02.2024, CWJC No. 19974 of 2016 dated 03.11.2023 and CWJC No. 14563 of 2023 dated 04.12.2023 in support of his contentions. Learned counsel has stated that the impugned order of cancellation is bad and liable to be set aside and prayed this Hon'ble Court to allow the present writ petition.

5. *Per contra*, learned counsel appearing on behalf of the respondents has vehemently opposed the very



maintainability of the present writ petition and stated that the petitioner has an alternative and effective remedy of filing an appeal before the District Magistrate. That the petitioner without availing the said remedy has straightaway approached this Hon'ble Court and the same is impermissible. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. Though, the authorities have filed their counter-affidavit, they have not denied the averment made by the petitioner at Para 8 & 10 of the writ petition that the inspection has taken place at 03:00 PM. As per Clause 15 & 25(i)(a) of the Bihar Targeted Public Distribution System (Control) Order, 2016, the working hours are as follows;

***“15 : Working and Leave :-- (i)***

*A shop of public distribution system shall be kept open every day in a week from 7.00 am to 1.00 pm from March to August and from 8.00 am to 2.00 pm from September to February.*

*(ii) If a fair price shop owner is unable to operate the shop due to unavoidable reasons for a limited period, he shall submit an application to the licensing authority. The licensing authority may give him permission to go in leave after making optional arrangement for supply of essential commodities to the consumers related to his shop. The maximum period of leave shall be of 90 days at a time.”*

***“25. Action against a licensee. -***

*(i) In view of the order passed by the Hon'ble Supreme Court in Civil Writ 196/01, action*



*shall be taken against the licensees in the following circumstances:-*

*Licensees who,*

*(a) do not keep their shops open throughout the month during the stipulated period;*

*.....  
.....”*

7. Moreover, as seen from the record, the names of the consumers/complainants has not been furnished to the petitioner nor they are mentioned in the show cause notice. Unless and until the names and statements of the consumers/complainants are furnished, the petitioner will not be in a position to give a suitable explanation to the show cause notice. Moreover, the petitioner has submitted her explanation on 17.11.2023 and the order of cancellation is passed on 27.12.2023 but in the said order except stating that the explanation submitted by the petitioner is not satisfactory, no other reasons are given for cancelling the PDS license. Unless and until reasons are given the order cannot be sustained and the rejection of the explanation in a perfunctory manner cannot be countenanced.

8. Having regard to the above, the impugned order passed by the Sub-Divisional Officer, Masaurhi-cum-Licensing Authority dated 27.12.2023 is hereby set aside. The matter is remanded back to the authority concerned for furnishing the names of the consumers/complainants along with the statements, if any, to the petitioner and giving him an



opportunity of filing afresh explanation. After receipt of the explanation, the authority shall pass a reasoned order duly taking into consideration the explanation submitted by the petitioner. The entire exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order. It is needless to mention that before passing any order, the petitioner shall be given an opportunity of hearing. Any order passed shall be communicated to the parties.

9. With the above direction, the present writ petition stands disposed of.

(A. Abhishek Reddy, J)

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