

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9481 of 2023

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Jiwika Didi Abhilasha, Public Distribution System Dealer Madhu Devi, aged about 38 yrs. female, wife of Ramnand Sharma, resident of Village- Raipur, P.S. Amdabad, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The Divisional Commissioner, Purnea Division, Purnea.
3. The Collector -cum- District Magistrate, Katihar.
4. The District Supply Officer, Katihar.
5. The Sub- Divisional Officer, Manihari, District- Katihar.
6. The Block Supply Officer, Amdabad, District- Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Adv. Mr. Sanjeev Kumar Singh, Adv. Mr. Kumar Rajdeep, Adv.
For the Respondent/s	:	Mr. Arvind Ujjwal (Sc4)
For the State	:	Mr. Upendra Pratap Singh, Adv.

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

6 26-09-2024 Learned counsel appearing on behalf of the petitioner has stated that the impugned order passed by the S.D.O. cancelling the license of the petitioner is liable to be rejected on three grounds: First, that the order of cancellation has been passed on the basis of an FIR lodged against the petitioner; Second, that the shop of the petitioner was inspected



at 03:50 P.M. whereas the petitioner is obligated to keep the shop open from 07:00 A.M. to 01.00 P.M. only and finally on the ground that though an allegation is made in the show cause notice that the petitioner has been supplying less grains and taking more amount from the beneficiaries, the names of the beneficiaries who have made the complaint have not been furnished to the petitioner nor their names are mentioned in the show cause notice. Learned counsel has relied on the judgments of this Hon'ble Court passed in CWJC No. 4516 of 2023 dated 31.10.2023 and also C.W.J.C. No. 8869 of 2022 dated 22.09.2022.

2. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the present writ petition and stated that the petitioner is having an alternative and effective remedy of filing a statutory revision before the Divisional Commissioner. However the petitioner without availing the said remedy has straightaway approached this Hon'ble Court under Article 226 of the Constitution of India which cannot be permitted. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

3. A perusal of the show cause notice dated 16.07.2020 (Annexure- 2) reveals that the shop of the petitioner



was inspected on 19.04.2020 at 03:50 P.M. As per the guidelines, more particularly, Rule 15 of the Control Order, 2016, the petitioner is obligated to keep the shop open from 07:00 A.M. to 01:00 P.M. whereas in this particular case, the inspection took place at 03:50 P.M. The inspection of the shop beyond the working hours is contrary to the provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016. Further it is to be noted that the names of the beneficiaries has not been furnished to the petitioner so as to enable him to cross-examine the beneficiaries and test the veracity of the statements made. In the absence of furnishing the names of the beneficiaries who have made the complaints, the petitioner would be put at a disadvantageous position to deal with the allegation. Further, this Court has time and again held that mere filing of an FIR cannot be a ground for cancelling the license of the petitioner unless and until the petitioner is convicted or declared as a fugitive the authorities simply cannot cancel the license.

4. Having regard to the above mentioned reasons, the writ petition is liable to be allowed and the same is accordingly allowed. The impugned order passed by the appellate authority as well as the Sub Divisional Officer are both set aside. The



license of the petitioner is restored. The official respondents are directed to resume the supply of grains and other commodities as expeditiously as possible preferably within a period of four weeks from the date of receipt of the copy of this order.

5. With the above directions, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

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