

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10006 of 2023

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Ganesh Gupta @ Ganesh Prasad Gupta Son of Late Sri Satyanaryan Gupta,
Resident of Village- Sahar, P.S.- Sahar, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Patna.
3. The District Magistrate, Bhojpur.
4. The Sub-Divisional Officer, Ara.
5. The Block Supply Officer, Sahar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shantam Shivam, Adv.
For the Respondent/s : Mr. Arvind Ujjwal (Sc4)

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

Date : 08-08-2024

Heard the learned counsel for the parties.

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

*“(A) A writ in the nature of
certiorari or any other appropriate
writ/s, order/s, direction/s:*

*i. To quash the order
04.05.2023 passed by dated the
Divisional Commissioner in BTPDS
Control Revision whereby where and
revision application the Petitioner
stating Petitioner was 74 of 2023 under
the filed by dismissed that therein has
violated terms provided Targeted
System Public under the the Bihar
Distribution Order; (Control) 2016 (for
short "BTPDS Control Order 2016")
and thus there is no need to interfere in
the order passed by appellate authority.*



ii. To Quash the order dated 04.07.2022 passed in Appeal No. 25 of District 2022 passed by the Magistrate, Bhojpur, Ara whereby and where under the appeal filed by the Petitioner against cancellation of his PDS license was dismissed.

iii. To quash the order dated whereby and where under the Sub-Divisional Officer, Ara, cancelled the PDS license being License No. 02/2018 of the Petitioner finding it to be not in consonance with the provision contained in Section-28 of the BTPDS Control Order 2016

(B) A writ in the nature of mandamus or any other appropriate writ/s, order/s direction/s, commanding the Respondent authorities following: for the

i. To stay the operation of orders dated 04.05.2023, 04.07.2022 and 26.08.2021 passed by the Divisional Commissioner, Patna, the Collector, Bhojpur, Ara and respectively.

ii. To restore the PDS license of the Petitioner and allow him to run his PDS shop?

(C) To any other relief/s to which the petitioner is found entitled to.”

3. Learned counsel for the petitioner submits that the solitary ground given in the show cause notice dated 08.03.2021 vide Memo No. 341 for cancelling the PDS licence of the petitioner was that a First Information Report (F.I.R.) bearing Sahar P.S. Case No. 298 of 2020 had been instituted against the petitioner. Similarly, the impugned order



has been passed on the sole ground of institution of the aforesaid FIR against the petitioner.

4. Learned counsel for the respondents appears and has been heard.

5. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. A perusal of the PDS. (Control) Order, 2001 read with Rule 7 of the notification in G.S.R. No. 1 dated 20.02.2007 makes it clear that mere institution of a First Information Report would not constitute a valid ground for cancellation of the PDS licence. This view finds support from the decision of this Court in *Umesh Ram vs. The State of Bihar and others*, AIR 2014 Patna 113 as well.

6. Even otherwise, the allegations made against the petitioner are trivial in nature for which the license of the petitioner could not had been cancelled. The admitted fact remains that the shop was being run by the wife of the petitioner on the day of inspection. The reason given by the petitioner is that he suffered an acute pain and had to visit the doctor but the said explanation was rejected on the ground that the petitioner had not taken any prior permission from the



authorities. It is not understandable as to how a person who suddenly falls sick or gets pain can anticipate that he will fall sick or get pain take prior permission. That none of the beneficiaries who have made a complaint with regard to the charging of more price and giving less quantity of grains were examined nor their names furnished to the petitioner to enable him to cross-examine them, further, it is to be noted that the petitioner had taken a specific stand that the dispensation of cash memo was done away with the introduction of the E-POS machine but the same was not dealt with by the authority while passing the order. On these grounds also the order of cancellation is liable to be set aside.

7. In view of the above, the impugned order dated 26.08.2021/27.08.2021 (Annexure-3) is hereby quashed and consequently the appellate order dated 04.07.2022 (Annexure-5) & revisional authority order dated 04.05.2023 (Annexure-7) is also set aside.

8. Needless to say, supplies to the petitioner shall be restored without delay.

9. It is made clear that, in case, the petitioner is subsequently convicted in the criminal case instituted against



him, thereafter, the authorities are free to take necessary action
in accordance with law.

10. With the above directions, the Writ Petition
stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.09.2024.
Transmission Date	NA

