

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13087 of 2024**

Vikram Kumar Jha Son of Late- Bishnudeo Jha Resident of Village-  
Parmanandpur, P.S.- Raniganj, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Old Secretariat, Patna.
2. The Divisional Commissioner, Purnea Division, Purnea.
3. The Collector, Araria.
4. The Sub-Divisional Officer, Araria.
5. The Block Supply Officer, Araria.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr.Amit Kumar Anand  
For the Respondent/s : Mr.Standing Counsel 11

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

3      26-11-2024                      Heard the learned counsels for the parties.

2. This writ petition has been filed for seeking the  
following relief(s)

“(i) For order dated 02.07.2024 passed by Learned Divisional Commissioner, Purnea in Supply Revision No. 26 of 2024 whereby and where under the Revision preferred by the petitioner against the order of the learned Collector, Araria dated 03.01.2024 passed in PDS Appeal No. 08 of 2023 was dismissed.

(ii) For Challenged the Order dated 03.01.2024 passed by the Collector, Araria in PDS Appeal No. 08 of 2023 whereby and where under the supply appeal preferred by the petitioner against the order of the Sub-Divisional Officer, Araria dated 26.04.2023 was dismissed and affirming the order of the Sub- Divisional Officer, Araria dated 26.04.2023 observing therein that the order of the the Sub- Divisional Officer, Araria passed according to the law after having given proper opportunity of hearing and no solid base to substantiate the appeal and accordingly dismissed.

(iii) For Challenged the Order dated 26.04.2023 passed by the Sub-Divisional Officer, Araria whereby and where



under the P.D.S dealer in Parmanandpur, Block- Raniganj, District- Araria was cancelled on the ground that the reply filed by the petitioner is not acceptable. Orally the dealer was several times directed to distribute the food grains amongst the consumer regularly but he failed to take any interest as such in violation of Rules of Bihar Targeted PDS Control order 2016.

(iv) Further the writ application file in the nature of mandamus commanding the Respondents especially Respondent No.3 to restore the allotment of the petitioner with immediate effect.”

3. Learned counsel appearing on behalf of the petitioner has stated that in the Show Cause Notice issued by the Sub-Divisional Officer there is no proposal for cancellation of the license. Learned counsel has stated that non-mentioning of the proposal for cancelling his license is contrary to the provisions of order 27(ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as ‘the Order, 2016’).

4. Learned counsel for the petitioner has relied on the judgment of the full Bench passed in CWJC No.21202 of 2021 and analogous cases dated 26.09.2023 to buttress his contention that non-mentioning of the proposed action in the show-cause notice is bad in law and contrary to Rule 27(ii) of the Control Order, 2016.

5. Learned counsel has stated in view of the above mentioned provisions of law and judgment relied by the petitioner, the impugned order may be set aside and matter remanded back to the authorities concerned for issuing a fresh



show-cause notice in terms of order 27(ii) of the Control Order, 2016 and thereafter take necessary action.

6. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the writ petition and stated that the present writ petition is not maintainable as the petitioner has exhausted all the remedies and all the authorities have found that the petitioner has violated the provisions of the Control Order, 2016. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present writ petition.

7. This Hon'ble Court in CWJC No.21202 of 2021 and analogous cases has held as under:

“19. Accordingly, we answer the reference as under:-

It is mandatory for a licensing authority issuing a notice under order 27(ii) to a licensee to mention that there is a proposal for cancellation of his license, failing which such notice cannot be treated to be a valid notice of giving sufficient opportunity to the licensee to state his case under order 27(ii) of the BTPDS Control Order. ”

8. A perusal of the show-cause notice issued to the petitioner does not reveal that there is any proposal of the action sought to be taken against the petitioner. Therefore, the same has to be held as bad, illegal, contrary to the provisions of Rule



27(ii) of the Control Order and has to necessarily set aside.

**9.** Having regard to the above facts and circumstances and the law laid down by this Hon'ble Court, the present CWJC is allowed. The impugned order passed by the Revisional Authority dated 02.07.2024, the order passed by the Appellate Authority dated 03.01.2024, as well as the order passed by the Sub-Divisional Officer, Araria dated 26.04.2023 are set aside. The matter is remanded back to the Sub-divisional Officer for issuing a fresh show-cause notice to the petitioner strictly in compliance with the provisions of Rule 27(ii) of the Control Order, 2016 and call for his explanation by giving him reasonable time.

**10.** On such show-cause notice being served, the petitioner shall file his explanation within the stipulated time. On receipt of the explanation submitted by the petitioner the authority concerned shall pass a reasoned order strictly in accordance with law duly taking into consideration the explanation submitted by the petitioner.

**11.** It is needless to mention that before passing any orders, the petitioner shall be given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date



of receipt of a copy of this order. Any order passed shall be communicated to the petitioner.

12. With the above directions, this Writ Petition is allowed to the extent indicated above.

(A. Abhishek Reddy, J)

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