

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16986 of 2022

Vijay Shankar Bhagat Son of Late Sukadev Bhagat Ward No.6, Resident of
Vilalge-Parasmani, Police Station-Sarasi, District-Purnia ... Petitioner
Versus

1. The State of Bihar through Secretary Department of Food and Civil Supply, Patna Bihar.
2. Commissioner, Purnia.
3. District Collector, Purnia.
4. Sub-Divisional Officer-Cum-Magistrate, Dhamdaha, Purnia.
5. Block Development Officer, Dhamdaha, Purnia.
6. Block Supply Officer, Dhamdaha Purnia.
7. Assistant District Supply Officer, Dhamdaha, Purnia. ... Respondents

Appearance :

For the Petitioner : Mr.Rang Nath Choubey, Adv.
For the Respondents : Mr. Anisul Haque, AC to AAG V

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

2 12-12-2024 Heard the learned counsel for the parties.

2. Learned counsel for the petitioner has stated that the Assistant District Supply Officer, Dhamdaha, Purnia (Respondent No. 7) has inspected the shop of the petitioner on 25.07.2019 at 01.40 p.m. and based on the said report the Sub Divisional Officer-cum-Magistrate, Dhamdaha, Purnia (Respondent No. 5) has issued the impugned show cause notice (Annexure 5), dated 26.07.2019. Learned counsel has stated that as per the guidelines issued by the Government of Bihar the PDS shop should be opened between 07.00 am to 01.00 pm from March till August and from 08.00 am till 02.00 pm from September to February. However, in this particular case the inspection of the sop of the petitioner has taken place at 01.40



pm, therefore the alleged inspection is contrary to the provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016. Learned counsel has further stated that the show cause notice does not reveal that there is any proposal for cancellation of the PDS license and the same is contrary to Rule 27(ii) of the Control Order, 2016.

3. Per contra the learned counsel appearing on behalf of the Respondent-State has vehemently opposed the very maintainability of the present Writ Petition. Learned counsel has stated that the authorities on inspection have found out that there are certain irregularities being committed by the petitioner and to that effect the show cause notice was issued. Learned counsel has stated that all the three authorities have found that the petitioner has violated the provisions of the Control Order, 2016, and the same does not require any interference by this Hon'ble Court and prayed for dismissal of the present Writ Petition.

4. Admittedly in this present case the inspection has taken place at 01.40 pm on 25.07.2019. As per the circular issued by the Government of Bihar the PDS license holders are obligated to keep the shop open during the period from 07.00 am to 01.00 pm from March till August and from 08.00 am to 02.00 pm from September to February but in this case the authorities have inspected the shop after the closing time of the



PDS shop therefore the inspection itself has to be held as bad. Further it is to be noted that there is no proposal for cancellation of the license in the show cause notice issued by the authorities. A Full Bench of this Court in CWJC No.21202 of 2021 and analogous cases dated 26.09.2023 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 license 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.”

5. Having regard to the same the impugned orders passed by the appellate and primary authorities are all set aside. The license of the petitioner is directed to be restored. In case the authorities want to take any action against the petitioner they shall do so strictly in accordance with law.

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

(A. Abhishek Reddy , J)

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