

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.853 of 2025

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Gopeshwar Prasad Singh Son of Niwash Prasad Sharma Resident of Village
and P.S.-Samyagarh, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Collector-Cum-District Magistrate, Patna.
3. The Block Supply Officer, Ghoshvari, District-Patna.
4. The Sub-Divisional Officer, Barh, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Labh
For the Respondent/s	:	Mr. Government Pleader (13)
	:	Mrs. Shweta Anand, AC to GP13

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

2 17-06-2025 Heard the learned counsel for the parties.

The present writ petition has been filed for the
following relief(s):-

“A. A Certiorari for quashing and setting aside the order passed by the Sub-Divisional Officer, Barh and issued vide Memo No. 14 dated 8/1/2025 whereby and where under license of the petitioner's P.D.S. shop bearing license No. 416/2017 has been cancelled with immediate effect contained in Annexure – P-1.

B. A mandamus commanding the Respondents to restore the petitioner's license and to make allotment for the same as before.

C. Any other relief or reliefs for which petitioner may be found entitled in the fact and circumstances of the present case may be granted to him.”

3. It is the case of the petitioner that the petitioner is a



PDS dealer and his shop was inspected on 26.11.2024 at 02:00 P.M. That pursuant to the inspection, the petitioner has been served with the show cause notice dated 28.11.2024 alleging that excess stock was found in his shop, the petitioner has given a suitable reply to the same. However, the authority without advertng to the said explanation has passed the impugned order on 08.01.2025.

4. Learned counsel for the petitioner has assailed the impugned order on the following two grounds.

(i) That the order has been passed in a mechanical manner without advertng to the show cause submitted by the petitioner to the show cause notice dated 26.11.2024.

(ii) That the authority has taken altogether new ground for cancelling the license of the petitioner which was not reflected in the show cause notice.

5. Learned counsel has further stated that the authority without putting the petitioner on notice on the new ground has passed the impugned order. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authority concerned and direct them to issue afresh show cause notice containing all the allegations against the petitioner and also the enquiry report, if



any, and then pass a reasoned order on the explanation submitted by the petitioner.

6. *Per contra*, the learned counsel appearing on behalf of the respondent-State has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner is having an alternative and efficacious remedy of filing an appeal before the District Magistrate but the petitioner without availing the same has straightaway approached this Hon'ble Court by way of present writ petition and the same is liable to be dismissed on this ground. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

7. A perusal of the impugned order as well as the show cause notice issued to the petitioner reveal that in the show cause notice dated 26.11.2024 the main allegation against the petitioner was that on inspection an excess stock of rice and wheat was found in his shop however, in the impugned order another ground has been added stating that some of the beneficiaries have made a complaint stating that though their thumb impressions were taken, the commodities were not issued by the petitioner, this allegation does not find place in the show cause notice issued to the petitioner. Further, the enquiry report



which forms the basis for passing the impugned order of cancellation is also not supplied to the petitioner. This Court as well as the Hon'ble Supreme Court in a catena of cases has time and again held that whenever the authority seeks to take any action, the principles of natural justice and equity mandate that the petitioner should be put on notice containing all the allegations against him and given an opportunity of filing his explanation. However, in this case the authority while passing the impugned order of cancellation has taken a new ground which is not found in the show cause notice dated 26.11.2024. On this ground alone, the impugned order is liable to be set aside. Though the learned counsel for the respondent-State has stated that the statutory appeal is available to the petitioner under the Bihar Targeted Public Distribution System (control) Order, 2016 and, therefore, the present writ petition is not maintainable. However, it is to be noted that there are violations of the principles of natural justice and equity, this Court can very well adjudicate the matter instead of relegating the petitioner to seek alternative remedy. It is well settled principle of law that alternative remedy is not a bar to entertain the writ petition under Article 226 of the Constitution of India.

8. Having regard to the same, the impugned order is



set aside and the matter is remanded back to the authority concerned. The authority is directed to issue afresh notice to the petitioner containing all the allegations against him and also enclose the copy of the enquiry report, if any, along with the show cause notice giving reasonable opportunity to the petitioner to file his explanation. On such receipt of explanation, the authority shall pass a reasoned order duly taking into account the explanation submitted by the petitioner. 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 orders passed shall be communicated to the petitioner.

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

(A. Abhishek Reddy, J)

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