

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1773 of 2025

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Surendra Yadav @ Surendra Prasad Yadav @ Surendra Prasad Yadav S/o-
Alakhdev Ray @ Alakhdev Ray Resident of Village Sahar Kola P.S.-
Basantpur, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department Food and Consumer Protection, Government of Bihar, Patna.
2. The Commissioner, Saran Sub-Division, Chhapra.
3. The Collector-Cum-District Magistrate, Siwan.
4. The Sub Divisional Officer, Maharajganj.
5. The Block Supply Officer, Basantpur, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Kumar Rajdeep, Advocate Ms. Diksha Kumari, Advocate
For the Respondent/s	:	Mr. Sumil Kr. Mandal, SC-3

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

5 30-06-2025 The present writ petition has been filed for following
reliefs:

“(i) For issuance of appropriate writ/writs, order/orders, direction in the nature of certiorari quashing the order dated 26.09.2024/01.11.2024 passed in Supply Revision Case No. 349/2023 passed by the Learned Commissioner, Saran Sub-Division, Chhapra whereby and where under he has dismissed the revision petition and confirmed the order dated 18.09.2023 passed by the Learned District Magistrate, Siwan by which the statutory appeal was dismissed.

(ii) Further for quashing the order dated 18.09.2023 passed in Supply Appeal No. 56/2019-20 passed by the District Magistrate, Siwan whereby and where under he has confirmed the order dated 07.02.2020 passed by the Learned S.D.O.-cum-Licensing Authority, Maharajganj.

(iii) Further for quashing the order dated 07.02.2020 passed by the Learned S.D.O.-cum-Licensing



Authority, Araria by which the PDS license of the petitioner being License No. 07/2007 has been cancelled.

(iv) Further for issuance appropriate writ/order/direction in which the petitioner found to be entitled in the facts and circumstances of the case.”

2. Learned counsel for the petitioner has stated that the respondent-authority has passed the order of cancellation of the PDS license issued to the petitioner solely on the ground that the EPOS machine which was made available to the petitioner has been tampered with and due to which the beneficiaries are suffering. Though the petitioner preferred an appeal as well as the revision before the Appellate Authority and Revisional Authority, the said authorities without appreciating the issue in a proper perspective, have passed the orders in a mechanical manner. Learned counsel has stated that the petitioner has informed the authorities vide letter dated 22.01.2020 that the EPOS machine issued to him has been damaged and sought the indulgence of the said authority either for repairing the machine or replacing it. However, the authority without considering the application made by the petitioner has straightaway issued a show cause notice vide Annexure-P-1 dated 31.01.2020, granting him 24 hours for filing his explanation. Further, learned counsel has stated that the show-cause notice issued to the petitioner is also liable to be set aside on the ground that the



same is not in accordance with Rule 27(ii) of Bihar Targeted PDS Control Order, 2016 (for brevity “Control Order”). Learned counsel has stated that all the authorities have failed to take into consideration the memo dated 14.07.2020 bearing no. 3015 (Annexure-P-9; Page-30) while passing the impugned order. Learned counsel has, therefore, prayed this Court to allow the present writ petition by setting aside the order passed by the Revisional, Appellate as well as the Primary Authority and restore the license of the petitioner.

3. Per contra, the learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the petitioner has deliberately violated the terms and conditions of the Control Order that the EPOS machine which was granted to the petitioner has been has been deliberately tampered. That based on the report submitted by the Block Supply Officer as well as the other authorities, the SDO has taken a decision to cancel the license of the petitioner. Learned counsel has stated that the orders passed by the authorities are in consonance with the law laid down by this Hon’ble Court and the provisions of the Control Order. Learned counsel has stated that the order do not require any interference by this Hon’ble Court and prayed for



dismissal of the present writ petition.

4. Admittedly, as seen from the record, the petitioner made a request on 31.01.2020 to the Sub-Divisional Officer bringing to his notice that the EPOS machine was not working and seeking repair of the machine or replacing it and for which the petitioner was willing to pay the necessary charges. However, the SDO instead of considering the said representation has straightaway issued the show-cause notice (Annexure-P-1) seeking his explanation as to why the PDS license should not be cancelled. The SDO based on the report submitted by the Block Supply Officer came to the conclusion that the EPOS machine was deliberately tampered with by the petitioner and cancelled the license issued in favour petitioner. The Appellate as well as the Revisional Authorities also came to the conclusion that the EPOS machine was deliberately tampered with by the petitioner and dismissed the appeal as well as the revision. However, it is to be noted that the authorities have failed to take into consideration that the petitioner himself has brought to the notice of the authority about the non-working of the EPOS machine and it is not a case where the authorities on inspection have found out that the EPOS machine was not working or has been tampered with. Further, it is to be noted



that the Government of Bihar had issued a memo 14.07.2020 (Annexure-P-9) bearing no. 3015, wherein the authority has directed the Subordinate Officers to follow the instructions where the EPOS machine was found to be damaged or any defects were found. The relevant portion is extracted herein below for the ready reference:

“The physical security of the POS device will be the responsibility of the FPS dealer after handing over the machine to FPS dealer. In case a PoS fails due to defects caused by reason such as mishandling, misuse, abuse, physical damage, unauthorized opening of PoS device, the same would be required to be repaired/replaced by Linkwell Telesystems. Regarding mishandling, misuse, abuse, physical damage, unauthorized opening of PoS device by FPS dealers the F&CPD Bihar would constitute a committee at District level comprising of F&CPD staff. In case committee finds that damage has been caused due to mishandling, misuse, abuse, physical damage, unauthorized opening of PoS device by FPS dealers. The cost of PoS would be paid by FPS owner. The MRP/Landing Cost of PoS to be paid by FPS owner for replacement would be as of the 25,500/- (Twenty-five thousand five hundred only)

अतः अनुरोध है कि उक्त प्रावधान के आलोक में है कि e-PoS यंत्र की भौतिक क्षति (Physical Damage) पर निर्णय एवं अग्रेतर कार्रवाई हेतु जिला स्तर पर जिला आपूर्ति पदाधिकारी की अध्यक्षता में समिति गठित करने की कृपा की जाय।”

5. However, said instructions have not been taken into consideration by the authorities. As per the above instructions whenever the defects are caused either by mishandling, misuse abuse, physical damage or unauthorised opening of the POS



machine, the same is required to be repaired or replaced by Linkwell Telesystems on payment of the necessary charges by the fair price shop owner. However, in this case, the same has not been done and the authorities have straightaway cancelled the license issued in favour of the petitioner, which is not proper.

6. Having regard to the above mentioned facts and circumstances, the impugned order passed by the Revisional Authority dated 26.09.2024/01.11.2024, the Appellate Authority dated 18.09.2023 and Primary Authority dated 07.02.2020 are all set aside. The license of the petitioner is directed to be restored immediately. The SDO is directed to send the EPOS machine to the Linkwell Telesystems and verify whether the same can be repaired or has to be replaced. In case any charges are to be levied, the same shall be collected from the petitioner. The entire exercise to be completed within a period of four weeks from today.

7. With the above directions, the writ petition stands allowed.

(A. Abhishek Reddy , J)

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