

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9503 of 2017

1. Krishnadev Prasad Son of Laxman Prasad Resident of Village- Budhaul, P.S. Wazirganj, District- Gaya.
2. Ramdeo Prasad Yadav son of Dashrath Yadav Resident of Village- Budhaul, P.S.- Wazirganj, District- Gaya.
3. Upendra Chouhan Son of late Budhan Chouhan Resident of Village- Budhaul, P.S. Wazirganj, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar through Secretary, Food and Civil Supply Department, Old Secretariat, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The Collector, Gaya.
4. The S.D.O. Sadar, Gaya.
5. Subodh Prasad @ Subodh Kumar Son of Sri Suresh Yadav Resident of Village- Budhaul, P.S. - Wazirganj, District- Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	None
For the Respondent/s	:	Mr.Manish Kumar, GP.-4
	:	Mr. Deepak Kumar, AC to GP-4

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT

Date : 07-05-2025

1. It is reported by the Learned counsel for the petitioners that the client has taken away the file and he has given no objection Vakalatnama to the petitioners.

2. No one appears for the petitioners. Once no objection is taken by the petitioners, it is for the



petitioners either to engage another counsel or to appear as party in person.

3. The matter pertains to the year 2017 where three of Writ petitioners preferred the Writ petition against the respondents including the private respondents no. 5 challenging the order dated 25.05.2017 passed by the 2nd respondent whereunder the Supply Revision No. 97 of 2017 was allowed, in favour of the 5th respondent, observing that the charges made against the petitioner have not been substantiated by documentary or cogent evidence and both the courts below passed orders on the basis of conjecture and surmises.

4. On perusal of the Writ petition, it is evident that the petitioners are the consumers and attached with the shop of the respondent no. 5 who carries out the business of public distribution shop within the Panchayat Amethi, basing on the license



bearing No. 77/2007. On 15.02.2016, the 1st petitioner and other consumers made allegation regarding irregular distribution of food-grains, against 5th respondent vide Annexure-1. On 16.02.2016 vide letter no. 25, the Block Supply Officer, Wazirganj, Gaya submitted an inquiry reported to the SDO, Sadar Gaya, stating therein that during the inspection 50 to 60 villagers were present and inquiry officer recorded the statements of the beneficiaries, but the dealer and their supporters pelted bricks upon them. Having no other option they fled away from the shop of the 5th respondent. Vide Memo No. 144/अत० dated 17.02.2016, the Block Supply Officer, Wazirganj was directed to make an inquiry for the shop of the petitioner and as such on 16.02.2016 at about 11:00AM, the inspection was conducted in the shop of the respondent no. 5 and inquiry report was submitted. On 16.02.2016 one



Sanjay Yadav lodged a report at Wazirganj P.S. for which Case No. 47/2016 registered under Section 147, 341, 323, 337/504 r/w 506 of the Indian Penal Code against the petitioners and others, alleging that Krishnadev Yadav assaulted him with Pathar and the brother of the informant Suresh Yadav was assaulted by Sunil Yadav by means of Pathar on his head. For the same set of occurrence, another FIR was also lodged by Krishnadev Prasad Yadav and others against the 5th respondent and their family members. On 23.02.2016 vide office letter no. 162/ अतो a show cause was issued to Subodh Kumar for submitting his reply against the allegations. Further the show cause notice dated 23.02.2016 was served to the 5th respondent. On 25.02.2016 the 5th respondent gave a reply denying the allegations. On 16.03.2016, the Sub Divisional Officer, Sadar, Gaya vide Memo No. 225 cancelled the license of 5th respondent on the



ground that the show cause of 5th respondent is not satisfactory. Against the order of cancellation dated 16.03.2016, the 5th respondent preferred an appeal before the Collector, Gaya which was pending. On 08.04.2016, the Sub Divisional Officer, Sadar, Gaya vide Memo No. 988 directed the Block Supply Officer, Wazirganj to take necessary steps for distributing the remaining food-grains of 5th respondent amongst the consumers and as per the orders of the Sub Divisional Officer, Sadar, Gaya the stock of the 5th respondent was handed over to one Aditaya Kumar for distribution.

5. As per the contents of the orders of the Sub divisional Officer, Sadar, Gaya dated 08.04.2016, the food-grains was supplied to thirty-three card holders, basing on the statement recorded by the Block Supply Officer. Further as per the order dated 13.04.2016 vide Memo No. 319, the Sub



Divisional Officer, Sadar, Gaya, directed the Block Supply Officer, Gaya to institute F.I.R. against the 5th respondent, as he was found indulged in black marketing of food-grains. Accordingly, Wazirganj P.S. Case No. 118 of 2016 was lodged against the 5th respondent, under Section 7 of E.C. Act. On 19.08.2016, the Collector, Gaya passed an order in Supply Appeal No. 17/2016 by which the appeal preferred by the 5th respondent was dismissed.

6. Being aggrieved by said order dated 19.08.2016, the 5th respondent preferred Supply Revision No. 97/2017 before the Commissioner, Magadh Division, Gaya. On 25.05.2017, the Commissioner, Magadh Division, Gaya allowed the revision of the 5th respondent holding that the charges made against the 5th respondent have not been established by any documentary and cogent evidence.



7. It is contended in the Writ petition that the Learned Commissioner has wrongly made observations that there was no documentary or cogent evidence against the 5th respondent and have wrongly passed the order on conjecture and surmises. Further the Inquiry Officer submitted an inquiry report vide Memo No. 25 dated 16.02.2016 in which he alleged that the dealer and their family members pelted stones and misbehaved with the consumers, for which a case was registered against the 5th respondents vide Case No. 48 of 2016 on the file of Wagirganj Police Station. The Writ petition is filed challenging the revision order dated 25.05.2017 passed by the Divisional Commissioner in Supply Revision No. 97 of 2017.

8. A detailed counter affidavit was filed by the officials respondents contending that the Writ petition is not maintainable either on facts or on law.



It is the specifically contended in the counter affidavit that the Commissioner has acted under his lawful jurisdiction and passed appropriate order but not on conjecture and surmises and the orders of the revision clearly disclose that the orders of the appellate authority dated 16.03.2016 passed by Sub Divisional Officer, Sadar as well as the order dated 19.07.2016 passed by the District Magistrate, Gaya were set aside and it is a well reasoned and a speaking order was passed basing on the materials available before the Divisional Commissioner, Magadh Division and therefore, prayed to dismissed the Writ petition.

9. Admittedly, this is not a Public Interest Litigation. The petitioners have not stated about their *locus standi* in challenging the orders of the Divisional Commissioner in this case. Moreover, the fundamental rights of the petitioner are nowhere infringed and there was no explanation as to how the



principles of natural justice of the petitioners, being the consumers of the PDS shop, are violated.

10. These all are questions of the facts, which were adjudicated by the revenue authorities and the order passed by the Divisional Commissioner clearly disclose that he has decided the matter basing on the material available before him. Further the Writ petition also disclose about the criminal cases lodged against the 5th respondent, for which the prosecution has to prove that the 5th respondent is guilty for those offences, which cannot be decided under the Writ jurisdiction.

11. On perusal of the entire record, the Writ petition itself disclose that it is not maintainable, therefore, the Writ petition is dismissed as devoid of merits.

(G. Anupama Chakravarthy, J)

amitkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.05.2025
Transmission Date	N/A

