

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3702 of 2023

Sanjeev Tripathi Chaudhary Son of Ramchandra Chaudhary, Resident of Gali No. 5, Pildauri, Police Station-Sultanganj, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Supply Department, Government of Bihar, Patna.
2. The Principal Secretary, Supply Department, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Bhagalpur.
4. The Sub-Divisional Officer, Bhagalpur.
5. The Block Supply Officer, Sadar Block Sultanganj, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Awadesh Kumar Mishra, Adv.
	:	Mrs. Shivani Mishra, Adv.
	:	Mrs. Pragati Singh, Adv.
	:	Mr. Shashank Shekhar, Adv.
For the Respondent/s	:	Mr. S. Raza Ahmad (Aag5)

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

Date : 20-03-2025

Heard the learned counsel for the parties.

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

“1. That this is an application for issuance of writ in the nature of certiorari for quashing of order dated 15.02.2022 passed by the District Magistrate-cum-Collector Bhagalpur in Supply (Aapurti) Appeal No. 193/2021-22 whereby and where under the P.D.S. license of the petitioner was cancelled by the learned Collector, Bhagalpur without consideration of show cause filed by the petitioner arises out of order dated 05.04.2021 passed by the Sub Divisional Officer, Bhagalpur circulated vide Memo No. 306 dated 07.04.2021 whereby and where under the license of P.D.S. dealer issued in the name of



the petitioner was cancelled without consideration on show cause filed by the petitioner contrary to the law.”

3. It is the case of the petitioner that he was appointed as a PDS dealer in the year 2019 and has been continuing to do so. That the petitioner after being appointed as a PDS dealer has submitted his application in the Month of August, 2020 seeking to correct the address of the PDS shop. However, the authorities did not act on the same but on the other hand the petitioner has received a show cause notice on 11.12.2020 asking him to explain as to why he has not taken any permission before shifting the shop to which the petitioner has already submitted his show cause. Thereafter, the petitioner was asked to file a supplementary show cause and the petitioner has filed the same on 06.01.2021 however, the authorities without considering the show cause/ explanation filed by the petitioner have cancelled the license issued in his favour vide order dated 05.04.2021.

4. Learned counsel appearing on behalf of the petitioner has stated that the petitioner had made an application seeking to change the address of the shop/ premises in the Month of August, 2020 itself and thereafter, he made another application on 16.01.2021 to the SDO concerned. However, without passing any orders on the said application, the authorities have cancelled the license issued in favour of the petitioner. Though the petitioner has



preferred an appeal before the District Magistrate who is the appellate authority under the (Control) Order, 2016, the same was also dismissed in a mechanical manner without considering the grounds of appeal or the show cause/ explanation filed by him. Learned counsel has stated that the act of the respondents in cancelling the license issued in favour of the petitioner without considering the show cause/ explanation and not taking into account the fact that there are no complaints against the petitioner by any of the consumers nor there is any allegation of any contravention of the provisions of the Control Order, 2016 ought not to have passed the order of cancellation. Learned counsel has stated that the petitioner has already filed his application seeking change of address but the authorities without passing any order on the same ought not to have passed the order of cancellation. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition.

5. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner has straightaway approached this Hon'ble Court bypassing the alternative and efficacious remedy of filing a revision. Learned counsel has stated that the petitioner had not made the application



for change of shop in the proper form or to the proper authority. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. Admittedly, in this particular case, the petitioner has been granted a license way back in the year 2019 at a particular address and, thereafter, he has shifted the same to another address. Though it is the case of the respondents that the petitioner has violated the conditions of the Control Order, 2016 more particularly, Clause 17 which states that any PDS dealer has to necessarily obtain prior permission from the SDO concerned before shifting the shop and the petitioner has not done so in this particular case. However, the fact remains that the petitioner has made an application for change of address in the Month of August, 2020 and, thereafter, on 16.01.2021, the authorities instead of passing any order on the said application has in its wisdom decided to cancel the license of the petitioner. This Court vide order dated 10.01.2024 had directed the authorities to file a supplementary counter-affidavit clarifying as to what is the distance between the original place of business and new place of business i.e. the one the petitioner has shifted the shop. The supplementary counter-affidavit has been filed by the respondents reveals that the distance between the two shops is only sixty



meters. The entire purpose of Clause 17 is to see that whenever the shops are shifted from one particular place to another place, the beneficiaries are not put to hardship by making them travel over large distances, if any shop is shifted from one locality to one another and the distance between the two shops is huge then the beneficiaries will face difficulty in traveling and in procuring their monthly rations. But in this particular case even going by the statement made in the supplementary counter-affidavit, the distance between the two shops is only sixty meters which in the opinion of this Court will not cause any hardship to any of the consumers. Further, it is to be noted that there is no allegations that the petitioner is indulging in violation of any of the provisions of the Control Order, 2016 more particularly with regard to any misappropriation, black-marketing etc. The authorities instead of passing necessary orders on the application made by the petitioner for shifting the shop has passed the order of cancellation which in the opinion of this Court is too harsh for such a trivial violation had it been a case where the petitioner has shifted his shop by a distance of more than one kilometer, it could have been a different scenario but in this particular case, the distance between the two shops is only sixty meters which is negligible and the beneficiaries will not face any difficulty in procuring the rations.



7. Having regard to the facts and circumstances of this case, this Court is of the opinion that the impugned order passed by the appellate authority dated 12.05.2022 as well as the primary authority dated 05.04.2021 have to be necessarily set aside and the same are accordingly set aside. The authorities are directed to restore the license of the petitioner forthwith and resume the supply of grains to the petitioner. The authority shall also pass necessary orders on the application made by the petitioner for change of address of his shop.

8. With the above direction, the present writ petition stands allowed to the extent indicated above.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.04.2025.
Transmission Date	NA

