

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3697 of 2025

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Bably Kumari, Wife of Rajesh Kumar, Resident of Village- Sakaddi, P.S-
Koilwar, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Bhojpur, Arah.
3. The Sub Divisional Officer Sadar, Bhojpur, Arah.
4. The Block Supply Officer, Sandesh, Arah.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Senior Advocate with Mr. Kumar Rajdeep, Advocate. Ms. Diksha Kumari, Advocate.
For the Respondent/s	:	Mr. J. K. Roy, SC-13 with Mr. U. K. Singh, AC to SC-13.

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

2 30-06-2025 Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the
following reliefs:-

*“For issuance of a writ in the
nature of Certiorari for quashing the
order dated 09.12.2024 passed in Supply
Appeal No. 08/2024 by the District
Magistrate, Bhojpur, Ara which was filed
against the order dated 24.01.2024 of
Sub-Divisional Officer, Bhojpur, Ara by
which PDS License No. 67/2008 of the
petitioner was cancelled are liable to be
set aside as the order passed by
Respondent No. 3 (The Sub-Divisional*



Officer Sadar, Bhojpur, Arah) is non-speaking and has been passed in mechanical manner without giving adequate time to the petitioner to file his show-cause and passing the order of cancellation of license of the petitioner in violation of the principles of natural justice, in as much as the impugned orders have been passed without considering the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner has stated that the petitioner is a PDS dealer and she has been issued a show-cause notice on 27.12.2023 granting her two days' time for filing her explanation. Learned counsel has stated that though the petitioner has filed her explanation on 19.01.2024 (Annexure P/2), the Sub-Divisional Officer, Sadar Bhojpur, Ara (Respondent No. 3) has passed the order of cancellation of the PDS dealership on the ground that the petitioner has not filed her explanation vide order dated 24.01.2024 (Annexure P/3). Learned counsel has state that the impugned order was passed on 24.01.2024 by which time the explanation submitted by the petitioner was on record, however, the authority without considering the same has passed the impugned order. Though the petitioner has preferred an appeal before the District Magistrate, Bhojpur, Arah (Respondent No. 2), the authority without going into the merits of the case has



passed the order dated 09.12.2024 in a mechanical manner and confirmed the order of cancellation. Learned counsel has stated that this Court in a number of cases has time and again held that the principles of natural justice and equity mandate that sufficient time should be given for filing an explanation but in this particular case, the authority has granted only two days' time. Learned counsel has relied on the judgment dated 23.11.2021 passed in CWJC No. 5508 of 2021 and also relied on the judgment dated 17.11.2024 passed in CWJC No. 10315 of 2020.

4. 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 without availing the statutory remedy of revision has straightaway approached this Hon'ble Court and the present writ petition is not maintainable on this ground alone. Learned counsel has, therefore, prayed this Court to dismiss the present writ petition.

5. A perusal of the impugned show-cause notice dated 27.12.2023 reveals that the authority has granted only two days' time for filing the explanation. This Court in the order dated 23.11.2021 passed CWJC No. 5508 of 2021 has held as under: -



“We are in agreement with the submissions made by Shri N.K. Agarwal learned Senior Counsel appearing for the petitioner that three days period to respond to the show cause in terms of notice dated 12.09.2016, Annexure-3 Page-19, was insufficient for the petitioner to respond thereto, enable, for placing on record material in support of her case. We notice that the appellate authority has not dealt with this aspect in its order while dismissing the petitioner’s appeal in terms of order dated 11.08.2018 passed in Case No. 224(M) 2016.”

6. Further, this Hon’ble Court in the order dated 17.11.2021 passed in CWJC No. 10315 of 2020 has held as under:

“5. In response to the said submission made on behalf of the State of Bihar, it has been argued on behalf of the petitioner that as the impugned order is patently illegal in clear violation of principles of natural justice and in breach of mandatory requirement under clause 27 (ii) of BTPDS Control Order; existence of alternative remedy may not bar exercise of writ jurisdiction by this Court.

6. Sub-clause (ii) of Clause 27 of BTPDS Control Order mandates that no order of cancellation of a licence shall be made until the licensee has been given sufficient opportunity to state his case against the proposal of cancellation of his licence.

7. In our considered view, Mr.



Agrawal is correct in his submission that three days' time, allowed to the petitioner to state his case against proposed cancellation of licence, cannot be said to be sufficient opportunity within the meaning of Sub-clause (ii) of Clause 27 of BTPDS Control Order."

7. Further, it is to be seen that the authority did not take into consideration the reply to the show-cause notice filed by the petitioner dated 19.01.2024 while passing the impugned order, on this ground also the impugned order dated 24.01.2024 passed by the Sub-Divisional Officer, Sadar, Bhojpur, Ara is liable to be set aside. Once the impugned order passed by the Sub-Divisional Officer is found to be against the principles of natural justice and equity, the appellate order also does not have any legs to stand and the same has to be necessarily set aside.

8. Having regard to the same, the impugned order dated 09.12.2024 passed by the District Magistrate, Bhojpur, Ara and the order dated 24.01.2024 passed by the Sub-Divisional Officer, Sadar, Bhojpur, Ara are both set aside. The matter is remanded back to the Sub-Divisional Officer for passing orders afresh. The petitioner is granted four weeks' time from today to file her explanation before the said authority and on such receipt of the explanation to the show cause notice dated 27.12.2023, the authority shall pass a reasoned order



strictly in accordance with law duly taking into consideration the explanation submitted by the petitioner. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of the explanation by the petitioner.

9. It is also made clear that, in case, the petitioner does not file her explanation to the show-cause notice dated 27.12.2023 within the period stipulated by this Court, the order of cancellation shall stand good.

10. With the above observations, the present Writ Petition stands disposed of.

(A. Abhishek Reddy, J)

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