

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9944 of 2019

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Upendra Paswan Son of Sri Badri Paswan Resident of Village- Naknuppa,
P.S.- Sherghati, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Bihar, Patna.
2. The Divisional Commissioner Magadh Division, Gaya.
3. The District Magistrate Gaya.
4. The Sub Divisional Officer Sherghati, Gaya.
5. The Assistant District Supply Officer Gaya.
6. The Block Supply Officer Sherghati, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sudhir Kumar Sinha, Advocate
For the Respondent/s : Mr. Arvind Ujjwal (SC c4)

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 12-08-2025

1. The writ petition is filed for the following reliefs:

“For issue an appropriate order/s, direction/s including a writ preferably in the nature of CERTIORARI for quashing of the order as contained in memo No. 319 dated 29-07-2017 passed by the learned Sub-Divisional Officer, Sherghati, Gaya whereby and where under he has tagged the consumer of petitioner's shop to the near fair price dealer namely Mathura Ravidas bearing



License No. 392/ 2007 on account of institution of Criminal case against the petitioner vide Sherghati P.S. Case No. 396/2017 u/s 7 of the Essential Commodities act and Block Supply Officer, Sherghati was directed to ensure lifting and distribution of food grains and K. oil from the aforesaid dealer.

Further the respondent No. 4 may be directed to resume the supply of food grains from the shop of the petitioner to the consumer tagged with his shop so that uninterrupted supply be made to them.

The petitioner seeks indulgence of this Hon'ble Court to grant him any other relief/s to which he may found entitled in the facts and circumstances of the case."

2. The brief facts of the case are that the petitioner was granted a Fair Price Shop License No. 628/2007 by the licensing authority - Sub Divisional Officer, Sherghati, under the Public Distribution Control Order, 2007. The petitioner contended that he has been discharging his duties as a licensee sincerely, properly and honestly, to



the satisfaction of the consumers, by regularly distributing food grains and other items at the prescribed rates and quantities.

3. It is further submitted that pursuant to an order dated 20-07-2017 passed by the S.D.O., Sherghati, a joint inspection was conducted by the Block Supply Officers, of Sherghati and Imamganj. An enquiry report was submitted, along with the statements from consumers, allegedly linked to the petitioner's shop, who complained that the dealer did not distribute food grains regularly and the supplies are being made only once, in two months that too at higher prices. It is further submitted that following this, the Block Supply Officer was directed to lodge a First Information Report under Section 7 of the Essential Commodities Act, 1958. Accordingly, Sherghati P.S. Case No. 396/2017 has been lodged against the petitioner on 20-07-2017.

4. The Learned counsel for the petitioner submitted that the Sub-Divisional Officer, Sherghati acted arbitrarily and with malafide intent by directing the inspection with collusive enquiry



against him. It is further contended that consumer statements were recorded under threat and coercion. The petitioner also claims that several consumers had executed affidavits on 10-08-2017 before the Notary Public, Sherghati, affirming that they had no grievances against the petitioner. Moreover, it is alleged that a local dealer had obtained signatures on blank papers, to issue new ration cards.

5. The Learned counsel for the petitioner contended that without cancellation of the petitioner's license, the Sub Divisional Officer, Sherghati, by Memo No. 319 dated 29-07-2017, tagged the petitioner's consumers to another dealer, namely, Mathura Ravidas who is holding License No. 392/2007, and directed the Block Supply Officer, Sherghati to ensure supply of food grains to that dealer.

6. The Learned counsel for the petitioner further submitted that the petitioner was granted anticipatory bail in the aforesaid Sherghati P.S. Case No. 396/2017 by this Hon'ble Court on 11-01-



2018 in Cr. Misc. No. 1495 of 2018.

7. Further, the Sub-Divisional Officer exceeded his jurisdiction in tagging the petitioner's consumers with another dealer without legally cancelling the petitioner's license and thus prayed to quash the impugned order and to direct the authorities for resumption of food grain supply to his shop.

8. The Learned counsel for the petitioner also draws attention of this Court towards Section 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016, which reads as follows:

"28. Actions to be taken against a licensee after a FIR lodged.

- If an FIR is lodged against a licensee under the Essential commodities Act, 1955 or for any other criminal cases, and he is sent to jail or he goes fugitive, his license shall be suspended by the licensing authority with immediate effect, and after serving show cause notice upon him in accordance with Civil Procedure Code and giving him sufficient opportunity to present his case, a lawful action shall be taken within 180 days, as



far as possible.”

9. Heard the Learned counsel for the petitioner as well as the Learned counsel for the State and perused the records.

10. No counter affidavit has been filed by the respondents even after granting sufficient opportunity to them.

11. This Court has perused Section 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016, which mandates that after service of a show cause notice in accordance with the provisions of the Civil Procedure Code and after providing adequate opportunity to the licensee to present their case, appropriate legal action shall be taken, preferably within a period of 180 days.

12. In the present case, more than 8 years have passed, but no lawful action has been taken by the concerned authorities.

13. In view of the above, the impugned order contained in Memo No. 319 dated 29.07.2017 is, hereby, quashed. The respondent



No. 4 is directed to resume the supplies to the petitioner’s shop as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order.

15. The Writ petition stands allowed. However, liberty shall be available to the respondents to take appropriate action afresh in accordance with law, if so advised.

16. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

AMANDEEP/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.08.2025
Transmission Date	

