

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7415 of 2024

=====

Angeshwar Prasad Chaudhary S/o Late Baiju Prasad Chaudhary Resident of
Village - Goai, P.O.- Karanja, P.S.- Naubatpur, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The Commissioner, Patna Division, Patna.
3. The Collector-cum-District Magistrate, Patna.
4. The Sub Divisional Officer-cum-Licensing Authority, Danapur.
5. The Block Supply Officer, Naubatpur, District - Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Adv. Mr. Dhananjaya Nath Tiwari, Adv. Mr. Kumar Rajdeep, Adv.
For the Respondent/s	:	Mr. Government Pleader (13)
For the State	:	Mr. Ravi Kumar, AC to GP13 Mr. Akshay Lal Prasad, AC to GP13

=====

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

Date : 19-02-2025

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following
relief(s):-

“(i) for issuance of appropriate writ/writs, order/orders, direction in the nature of certiorari quashing the order dated 06.02.2024 passed by the Learned Secretary, Food and consumer Protection Department Patna by which the representation filed before the Secretary, Food and Consumer Protection Department was dismissed and confirmed the order of the licensing authority as well as appellate authority and revisional authority by which the PDS license of



the petitioner being License No. 28/2016 has been cancelled.

(ii) Further for quashing the revisional order dated 25.07.2023 passed in B.T. P.D.S. Control Revision No. 89/2023 by the learned Commissioner, Patna Division, Patna by which he was pleased to dismissed the statutory revision filed on behalf of the petitioner and affirmed the order dated 04.01.2023 passed by the learned Collector, Patna.

(iii) Further for quashing the order dated 04.01.2023 passed in E.C. Appeal Case No. 06/2022-23 passed by the Learned Collector Patna by which the statutory appeal filed on behalf of the petitioner was dismissed and order of licensing authority cancelling PDS license dated 16.06.2021 was affirmed.

(iv) For quashing the order contained in Memo No. 525/Aa. Dated 16.06.2021 passed by the sub Divisional Officer, Danapur-cum-Licensing Authority by which he was pleased to cancel the PDS license of the petitioner being License No. 28/2016.”

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

3. Brief facts necessary for the purpose of disposal of the present case are that the petitioner was granted PDS license in the



year 2016 in Karanja Panchayat, Block- Naubatpur, Patna. That the petitioner's PDS shop was inspected on 21.05.2021 by the Sub Divisional Officer, Danapur and basing on the Inspection Report, a show cause notice was issued to the petitioner vide Memo No. 502 dated 25.05.2021 alleging that the petitioner has shifted his PDS shop from Sarari to Goai Karanja without prior permission from the licensing authority. That after receipt of the show cause notice, the petitioner has given his reply/ explanation to the licensing authority on 07.06.2021 explaining in detail that the petitioner had given an application/ representation to the Block Supply Officer informing about the shifting of the shop from Sarari to Goai Karanja. It is stated that the petitioner had to vacate the PDS Shop at Sarari as the landlord asked him to vacate the premises. Having no other option, the petitioner had to vacate the shop existing at Sarari and had to shift to a new place at Goai Karanja. The factum of shifting was intimated to the authority concerned on 21.12.2018. Learned counsel for the petitioner has stated that though the petitioner has given a suitable explanation to the show cause notice issued by the SDO concerned, the SDO without considering the said explanation has cancelled the license of the petitioner. Thereafter, the petitioner has preferred an appeal, as well as revision against the said order of cancellation however



both the appellate as well as the revisional authority have passed the order dismissing the appeal and revision filed by the petitioner in a mechanical manner. Even though the petitioner has preferred a representation to the Principal Secretary in terms of Rule 32 (vii) of the Bihar Targeted PDS (Control Order), 2016, the same was also rejected by the Principal Secretary. Learned counsel has stated that the petitioner left with no other option had to approach this Court for redressal of his grievance. Learned counsel for the petitioner has stated that for the reasons beyond the control of the petitioner, the petitioner had to shift the place of business from Sarari to Goai Karanja and he had intimated about the same to the authority concerned way back in the year 2018. Learned counsel has stated that the petitioner has been running the PDS Shop from Goai Karanja without any complaint from any of the beneficiaries who take the commodities from him. Learned counsel has stated that the authorities cannot cancel the license of the petitioner on a solitary ground that the petitioner has shifted the shop, more so, when the petitioner has already intimated about the shifting of the shop from Sarari to Goai Karanja. Learned counsel has relied on the judgment passed by the Division Bench of this Hon'ble Court in LPA No. 1563 of 2009 in support of his case wherever it was held as under:



“Here the appellant has intimated to the Block Supply Officer with regard to storage of food-grains in the place other than the business premises, although the appellant has explained the reason stating that due to rainy season the food-grains has to be lifted to other place and in this regard intimation has been given within 72 hours. The learned Single Judge has further held that the appellant has not followed the statutory provisions. But however we have to observe that as seizure was affected within 72 hours of storage of grains, we accept the contention of the counsel for appellant as the appellant could not be found fault with for his inaction in not intimating to the S.D.O. as he was intimating to B.S.O.

After having heard counsel for the parties, this Court is of the opinion that as the appellant has intimated about lifting of grains within 72 hours to the Block Supply Officer, it cannot be said that the appellant has violated the statutory provision. Accordingly, this L.P.A. is allowed and the order dated 28.1.2009 passed by the learned Single Judge is set aside.”

4. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that all the authorities have found that the petitioner has violated the provisions of the Control order more particularly



Rule- 17 which mandates that the dealer before shifting the PDS shop has to inform the concerned licensing authority and only taking permission he has to shift his shop. However, in this case, the petitioner has sent the intimation to the Block supply Officer and not to the concerned licensing authority, therefore, the contention of the petitioner that he has informed the authorities well before the show cause notice was issued to him is without any substance. That the application made by the petitioner to the Block Supply Officer is of no use when the competent authority is the Sub Divisional Officer. Learned counsel for the respondents has also stated that lots of complaints were made against the petitioner, that he has not being supplying the ration properly and that the beneficiaries are facing difficulty in procuring the commodities etc. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. Admittedly as seen from the record, the petitioner was initially granted PDS license from Sarari. However, at the time of inspection, the petitioner was found to be operating from Goai Karanja. Even though Rule 17 speaks of intimating the licensing authority about the shifting of the shop from one place to another, the fact remains in this particular case the petitioner has intimated the Block Supply Officer way back in the year 2018 itself. In case



the Block Supply Officer was of the view that he is not a competent authority for either receiving the application or passing any order, he ought to have written the same to the petitioner so as to enable the petitioner to take remedial steps for either giving the representation to the concerned authority or for making alternate arrangement. But in this particular case, the license is cancelled solely on the ground that the petitioner has not intimated the SDO about the shifting of the shop from one place to another. The Hon'ble Division Bench in L.P.A. No. 1563 of 2009 dated 20.01.2011 has held that the license of the petitioner cannot be cancelled on mere technicalities more so when there is no complaint from any of the beneficiaries that they have been put to hardship due to shifting of the place from Sarari to Goai Karanja. In this particular case also, the show cause notice issued to the petitioner does not reveal that any of the beneficiaries had made any complaint to the authority about the shifting of the shop. Further, it is to be noted that the application/ representation was made in the year 2018 and, therefore, it cannot not be said that the petitioner is either trying to suppress the material fact or that he is violating the provisions of the Control order.

6. Having regard to the above mentioned facts and circumstances, this Court deems it fit to set aside the impugned



order dated 16.06.2021 passed by Sub Divisional Officer, Danapur, the impugned order dated 04.01.2023 passed by the Learned Collector, Patna, the impugned order dated 25.07.2023 passed by the Learned Commissioner, Patna Division, Patna and the impugned order dated 06.02.2024 passed by the Learned Secretary, Food and Consumer Protection Department, Patna. The license of the petitioner is directed to be restored.

7. With the above directions, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

Gauravkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.02.2025
Transmission Date	N/A

