

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7446 of 2025

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Dhannu Devi, Wife of Dilip Kumar, Resident of Village- Bishunpur Khetal,
Police Station- Bochaha, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Food and Civil Supplies Department, Government of Bihar, Old Secretariat, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, Muzaffarpur.
5. The Sub- Divisional Officer (East), Muzaffarpur-Cum- Licensing Authority, Muzaffarpur.
6. The Block Supply Officer, Block- Bochaha, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar, Advocate.
For the Respondent/s : Mr. Standing Counsel (11)

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

5 15-10-2025 Heard learned counsel for the parties.

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

“(i) For issuance of writ in the nature of Certiorari to set aside the order dated 22.08.2023, passed in PDS Revision Case No. 120 of 2023 by the Court of Learned Divisional Commissioner, Tirhut Division Muzaffarpur, by which order passed in Supply Appeal No. 38/2021-22 dated 17.02.2023, passed by the Learned District Magistrate, Muzaffarpur has been affirmed, which is contrary to the facts and position of law and also without considering the grounds raised by the petitioner in his revision application filed before the learned Commissioner, Tirhut Division, Muzaffarpur.

(ii) That the petitioner also



prays for issuance of writ in the nature of certiorari for quashing of the order passed by learned District Magistrate, Muzaffarpur, passed in Supply Appeal No. 38/2021-22, dated 17.02.2023 by which appeal of the petitioner filed against the order of cancellation of his license dated 12.07.2021 has been rejected.

(iii) For issuance of writ in the nature of Certiorari to set aside the order contained in Memo No. 1666, dated 12.07.2021, passed by Sub-Divisional Officer (East) Muzaffarpur-cum-Licensing Authority by which the PDS License of the petitioner has been cancelled on the basis of an inquiry which has been conducted in the shop of the petitioner and without giving appropriate opportunity as well as without considering the show cause reply filed by the petitioner, without valid and legal reasons.

It is stated that though it has been mentioned in the show-cause notice that the enquiry report is being annexed but the report of the enquiry was not annexed along with the show-cause notice dated 14.06.2021, which was pointed out by the petitioner in his reply to show-cause.

(iv) That the petitioner also prays for direction upon the Respondents to restore the PDS License of the petitioner and further to allot food grains for allotment on month to month basis.”

3. Learned counsel appearing on behalf of the petitioner submits that the pursuant to the inspection report made by the Block Supply Officer, the petitioner has been issued a show-cause notice dated 14.06.2021 (Annexure P/4). That the said show-cause



notice was served on the petitioner on 05.07.2021 in the said show-cause notice only three days' time was granted to the petitioner to file his explanation. Learned counsel submits that there were nearly ten allegations made against the petitioner and the petitioner could file his explanation to the said show-cause notice only on 12.07.2021. However, but the authority without taking the same into consideration has passed the order on 12.07.2021. Learned counsel for the petitioner submits that stipulation of three days in the show-cause notice for filing the explanation to the same is contrary to the well established principles of law, the law laid down by this Hon'ble Court as well as the Hon'ble Supreme Court in a catena of cases and is opposed to the principles of natural justice and equity. That the authority without taking into consideration the explanation submitted by the petitioner, on 12.07.2021 has passed the impugned order of cancellation though the said explanation filed by the petitioner was on record. Further, learned counsel has stated that though the petitioner has filed a statutory appeal and a revision before the District Magistrate and the Divisional Commissioner respectively, the authorities have not considered the grounds raised by the petitioner and passed the order in a mechanical manner dismissing the appeal and the revision filed by the petitioner and confirming the order of cancellation passed by Sub-Divisional Officer.



Learned counsel has relied on the judgment of this Hon'ble Court reported in 2013 (1) PLJR 718 (Smt. Fulpati Devi Vs. The State of Bihar & Ors.) in support of his case.

4. Per contra, the learned counsel appearing on behalf of the Respondent-State has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the authority duly taking into consideration the serious allegations made against the petitioner have passed the impugned order of cancellation. Both the appellate and revisional authority did not find any merits in the appeal and the revision and dismissed the same. The said orders are all well reasoned orders which do not require any interference by this Hon'ble Court. Learned counsel has submitted that the present writ petition filed by the petitioner is bereft of any merits and the same is liable to be dismissed and prayed for dismissing the CWJC.

5. A perusal of the impugned orders passed by the Sub-Divisional Officer, the District Magistrate and also the Divisional Commissioner reveals that the authority has issued the show-cause notice to the petitioner vide Memo No. 1492 dated 14.06.2021 (Annexure P/4) granting him three days' time to file his explanation. This Hon'ble Court as well as the Hon'ble Supreme Court has time and again held that the principles of natural justice and equity mandate that whenever any the show-cause notice is



issued to any person, a reasonable time should be granted to the said person for filing his explanation. In this case, there are nearly ten allegations made against the petitioner and only three days' time has been granted to him. This Court finds that the time granted is insufficient and cannot be termed as reasonable.

6. A Division Bench of this Hon'ble Court vide order 23.12.2021 passed in CWJC No. 7470 of 2021 wherein two days' notice was granted to the petitioner to file his reply to the show-cause notice held that granting of two days is absolutely insufficient and relying on the judgment reported in **2013(1)PLJR 718 (Smt. Fulpati Devi Vs. The State of Bihar & Ors.)** has set aside the impugned order of cancellation passed therein and remanded the matter back to the authority for passing the orders afresh in accordance with law.

7. Further, in this particular case also, this Court finds that granting of only three days' time to the petitioner for filing his reply to the said show-cause notice is insufficient and therefore, the impugned order passed by the Sub-Divisional Officer, (East) Muzaffarpur dated 12.07.2021, the consequential order dated 17.02.2023 passed by the District Magistrate, Muzaffarpur as well as the order dated 22.08.2023 passed by the Divisional Commissioner, Tirhut Division, Muzaffarpur are all set aside. The matter is remanded back to the authority i.e. Sub-Divisional



Officer concerned for passing the orders afresh. The authority before passing any order shall put petitioner on notice and grant him time of ten days to file his explanation. On filing the explanation by the petitioner, the authority shall pass a reasoned order strictly in accordance with law duly taking into consideration the explanation submitted by the petitioner. The authority shall endeavour to complete the entire exercise as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of the copy of this order. It is needless to observe that before passing any orders the petitioner shall be given an opportunity of hearing. Any order passed shall be communicated to the party.

8. With the above directions, the present Writ Petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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