

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7761 of 2025

Pradeep Kumar Chaudhary @ Pradeep Chaudhary alias Pradeep Jaiswal, Son of Late Lalita Prasad Chaudhary, Resident of Village-Ward no. 06 Ghat Kinara Bari Durga Mandir Road, P.S.-Mahnar District-Vaishali, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Old Secretariat, Patna.
2. The District Supply Officer, District-Vaishali
3. The Sub-Divisional Magistrate, Mahar, Vaishali.
4. The Block Supply Officer, Mahnar, Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Adv. Mr. Kumar Rajdeep, Adv. Mr. Arvind Kumar, Adv. Ms. Diksha Kumari, Adv.
For the Respondent/s	:	Mr. Government Pleader (22) Mr. Rakesh Ranjan, AC to GP n22

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

2 01-07-2025 Heard the parties.

2. The present writ petition is filed for the following relief(s):-

“(i) Dated 01.03.2025 (Annexure-P/4) passed by learned Sub-Divisional Magistrate, Manhar, Vaishali (Respondent No.3) contained in Memo No.75, whereby and where under the license granted to the petitioner for carried a business of a Public Distribution shop having license no 09/2016 in Manhar Nagar-Parishad was cancelled on the ground that even if reasonable opportunity given to the petitioner his show-cause was not found satisfactory which shows the irregularities was committed by the petitioner while



operation of the license.

(ii) Pass such other order/s as your Lordship may deem fit and proper in the facts and circumstances of the case including the order to restore the supplies/allotment with immediate effects after quashing the order dated 01.03.2025.”

3. Learned counsel appearing on behalf of the petitioner has stated that the petitioner has been granted PDS license on 01.07.2026 and thereafter the inspection was conducted by the authority on 04.12.2024 at 7.30P.M. Though the petitioner has submitted his explanation, the authority without considering the same has passed the impugned order, whereby the license of the petitioner has been cancelled. Learned counsel has stated that the inspection of the subject premises at 7.30 P.M. is contrary to the provisions of the Bihar Targeted Public Distribution System Control Order, 2016, more specifically, Rule 15 of the said Control Order. Learned counsel has stated that the initiation of the proceedings against the petitioner is contrary to the principle of natural Justice and equity and therefore prayed this Hon'ble Court to set aside the impugned order.

4. Per contra, learned counsel appearing on behalf of the respondents-State has vehemently opposed the very



maintainability of the present writ petition. Learned counsel has stated that the petitioner without availing the alternate remedy of filing statutory appeal has straightaway approached this Hon'ble Court and the writ petition filed by the petitioner is liable to be dismissed on this ground alone.

5. In order to appreciate the issue involved in the present writ petition, the provisions of Control Order, more specifically, Rule 15 is to be examined. Rule 15 of the Bihar targeted public distribution system (control) order 2016 reads as under:

“15. Working Period and Leave. (i) A shop of public distribution system shall be kept open every day in a week from 7.00 am to 1.00 pm from March to August and from 8.00 am to 2.00 pm from September to February.

(ii) If a fair price shop owner is unable to operate the shop due to unavoidable reasons for a limited period, he shall submit an application to the licensing authority. The licensing authority may give him permission to go in leave after making optional arrangement for supply of essential commodities to the consumers related to his shop. The maximum period of leave shall be of 90 days at a time.”

6. A perusal of Rule 15 shows that the petitioner is



obligated to keep the PDS shop open from 8 A.M. to 2 P.M. from the Month of September to February. Admittedly, in this particularly case the inspection took place on 04.12.2024 at 7.30 P.M., i.e., beyond the working hours. Therefore, the inspection has to be held as bad and the consequential show cause notice issued to the petitioner is also to be declared as illegal. The entire procedure adopted by the authorities and passing of the impugned order dated 01.03.2025 by the Sub-Divisional Officer is liable to be set aside as it is contrary to the provisions of the Control order. That in so far as the objection taken by the respondent counsel that the petitioner has an alternative and efficacious remedy of filing an appeal is concerned, it is also to be rejected on the ground that once it is held that the procedure adopted by the authorities is bad, illegal and contrary to the provisions of the act, the bar of alternative remedy will not apply.

7. The Supreme Court in **Whirlpool Corporation v. Registrar of Trade Marks, Mumbai (1998) 8 SCC1** has held as under:

"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be



exercised by the High Court not only for issuing writs in the nature of habeas corpus. mandamus. prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose". 15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."



8. Having regard to the above stated factual and legal position, the present writ petition is allowed. The impugned order dated 01.03.2025 (Annexure P/4) passed by the Sub-Divisional Officer is set aside. The PDS license of the petitioner is restored and the authorities are directed to resume the supply of grains for the distribution immediately.

(A. Abhishek Reddy , J)

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