

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9925 of 2025

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Basmini Devi @ Basmani Devi W/o Late Brij Kishore Mahto, Resident of
Village-Banwar, Panchayat-Lejuar, P.S.-Daudpur, District-Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Commissioner, Saran Division, Chapra.
3. The Collector, Saran at Chapra.
4. The Sub-Divisional Officer cum Licensing Authority, Sadar, Chapra.
5. The Block Supply Officer, Manjhi, Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari
For the Respondent/s : Mr.Government Advocate (07)

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

2 22-07-2025 Heard the learned counsels for the parties.

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

“(i) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of certiorari for quashing the order contained in Memo No. 812 dated 11.04.2023 passed by the Learned Sub-Division Officer Sadar Chapra-cum-Licensing authority by which he has cancelled the PDS license of the petitioner being License No. 07/2018 on the basis of a notice where is no stipulation of proposed cancellation.

(ii) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of certiorari for quashing the appellate order dated 04.09.2023 passed in Supply Appeal No. 06/2023 passed by the Learned Collector Saran at Chapra by which he was pleased to dismissed the Statutory appeal in default filed on behalf of the petitioner.

(iii) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of certiorari for quashing the Revisional order dated



24.01.2025/25.02.2025 passed in Supply Revision Case No. 118/2024 passed by the Learned Commissioner, Saran Division, Saran at Chapra by which he was pleased to dismissed the Statutory revision filed on behalf of the petitioner.

(iv) For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of mandamus commanding the respondents to restore the license of the petitioner being License No. 07/2018.

(v) For other relief/reliefs for which the petitioner is entitled in the eye of law.”

3. Learned counsel appearing on behalf of the petitioner has stated that in the Show Cause Notice issued by the Sub-Divisional Officer there is no proposal for cancellation of the license. Learned counsel has stated that non-mentioning of the proposal for cancelling her license is contrary to the provisions of order 27(ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as ‘the Order, 2016’).

4. Learned counsel for the petitioner has relied on the judgment of the full Bench passed in CWJC No.21202 of 2021 and analogous cases dated 26.09.2023 to buttress his contention that non-mentioning of the proposed action in the show-cause notice is bad in law and contrary to Rule 27(ii) of the Control Order, 2016.

5. Learned counsel has stated in view of the above mentioned provisions of law and judgment relied by the petitioner, the impugned order may be set aside and matter



remanded back to the authorities concerned for issuing a fresh show-cause notice in terms of order 27(ii) of the Control Order, 2016 and thereafter take necessary action.

6. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the writ petition and stated that the present writ petition is not maintainable as the petitioner has exhausted all the remedies and all the authorities have found that the petitioner has violated the provisions of the Control Order, 2016. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present writ petition.

7. This Hon'ble Court in CWJC No.21202 of 2021 and analogous cases has held as under:

“19. Accordingly, we answer the reference as under:-

It is mandatory for a licensing authority issuing a notice under order 27(ii) to a licensee to mention that there is a proposal for cancellation of his license, failing which such notice cannot be treated to be a valid notice of giving sufficient opportunity to the licensee to state his case under order 27(ii) of the BTPDS Control Order. ”

8. A perusal of the show-cause notice issued to the petitioner does not reveal that there is any proposal of the action sought to be taken against the petitioner. Therefore, the same



has to held as bad, illegal, contrary to the provisions of Rule 27(ii) of the Control Order and has to necessarily set aside.

9. Having regard to the above facts and circumstances and the law laid down by this Hon'ble Court, the present CWJC is allowed. The impugned order passed by the Revisional Authority dated 24.01.2025/25.02.2025, the order passed by the Appellate Authority dated 04.09.2023, as well as the order passed by the Sub-Divisional Officer, Sadar Chapra dated 11.04.2023 are set aside. The matter is remanded back to the Sub-divisional Officer for issuing a fresh show-cause notice to the petitioner strictly in compliance with the provisions of Rule 27(ii) of the Control Order, 2016 and call for her explanation by giving him reasonable time.

10. On such show-cause notice being served, the petitioner shall file her explanation within the stipulated time. On receipt of the explanation submitted by the petitioner the authority concerned shall pass a reasoned order strictly in accordance with law duly taking into consideration the explanation submitted by the petitioner.

11. It is needless to mention that before passing any orders, the petitioner shall be given an opportunity of hearing. The entire exercise shall be completed as expeditiously as



possible preferably within a period of eight weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the petitioner.

12. With the above directions, this Writ Petition is allowed to the extent indicated above.

(A. Abhishek Reddy, J)

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