

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23021 of 2018

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Uday Kumar S/o Ram Prasan Rai, Resident of Ward No.-1, Nagar Parishad, Danapur, P.S.-Danapur, District-Patna, at present Resident of New Punaichak, Near-Indira Bhawan, West Boring Canal Road, P.S.- Sachiwalaya, District-Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Department of Food & Consumer Protection, Government of Bihar, Patna
2. The Collector, Patna.
3. The Sub Divisional Office, Danapur, Patna.
4. The Marketing Officer, Danapur, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari
For the Respondent/s : Mr.Arvind Ujjwal -SC-4

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 01-09-2025

1. The writ petition is filed for setting aside the order contained in Memo No. 882 dated 07.07.2018, by which the PDS licence of the petitioner, being Licence No. 8/2007 has been cancelled by the Sub-Divisional Officer, Danapur and further to restore the licence and supply of the petitioner.

2. The brief facts as culled out of the writ petition are that on 17.09.2013, a show cause notice



was issued to the petitioner wherein it is alleged that on 06.08.2013, the petitioner's PDS shop was inspected by the Marketing Officer, Danapur, alleging therein that:-

(i) without prior information the shop was found closed

(ii) petitioner makes short supply of 2 kg to the BPL cardholders, and

(iii) deficiencies were found in the weighing and measuring instruments.

3. The petitioner submitted his reply on 28.09.2013 denying all allegations and asserting that the weighing and measuring instruments were duly certified by the competent authority.

4. Thereafter, the Learned Sub-Divisional Officer (S.D.O.), Danapur cancelled the petitioner's license vide order dated 24.10.2013. Being aggrieved by the said order, the petitioner preferred an appeal before the Collector-cum-District Magistrate, Patna, who vide order dated 05.04.2018,



set aside the cancellation order and remanded the matter for fresh consideration.

5. Subsequently, a fresh show cause notice was issued on 16.05.2018 by the Learned Sub-Divisional Officer (SDO), Danapur, to which the petitioner filed reply on 24.05.2018. In his reply, the petitioner explained his absence during the course of inspection on medical grounds, denying the allegations and further referred to a FIR (Shahpur P.S. Case No. 168/2013) lodged on the same set of allegation, wherein the police after investigation submitted final form which was accepted by the Learned Magistrate on 09.08.2017.

6. Despite the aforesaid explanation, the Learned Sub-Divisional Officer (S.D.O.) rejected the petitioner's reply and upheld the cancellation of licence solely on the ground that the shop was found closed, at the time of inspection. Further, the petitioner relied on a judgment passed by this Court in **Turant Lal Paswan Vs. State of Bihar (2012 (3) PLJR 583)**, wherein it was held that license cannot be cancelled merely on the basis of closure of



shop. Therefore, prayed to set aside the impugned order.

7. Heard the Learned counsel for the petitioner as well as the Learned counsel for the State.

8. At this juncture, the Learned counsel for the petitioner draws attention of this Court to the judgment passed by a Full Bench of this Court in **CWJC No. 21202 of 2021 (Ghuran Paswan Vs. The State of Bihar & Ors.)** and other analogous cases. The Learned counsel contends that this matter is squarely covered by the judgment passed by this Court in **Ghuran Paswan (supra)**. Therefore, it is prayed that this writ petition may be disposed of on the same terms and conditions.

9. The Learned counsel for the respondents, agreeing with the judgment passed by Full Bench of this Court in **Ghuran Paswan (supra)** and submits that this matter may be disposed of on the same terms and conditions as outlined in the aforesaid judgment.



10. I have perused the order passed in **Ghuran Paswan (supra)**. For better appreciation of the facts, relevant portion thereof is quoted hereinbelow:

“18. In our considered opinion, it is mandatory to mention the proposed action of cancellation of licence in a notice under order 27(ii), in the absence of which a notice cannot be said to be a valid notice under order 27(ii) of the BTPDS Control Order. We find no reason to take a different view than what has been taken by the Division Bench in the case of Ram Bachan Ram (supra) which lays down the correct law.

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 licence, 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”*

11. In view of the fact, this matter is squarely covered by the aforesaid judgment, the impugned order contained in Memo No. 882 dated 07.07.2018, is hereby, quashed.

12. The writ petition is allowed. The licence of the petitioner stands restored.

13. This order would not preclude the licensing authority to proceed in the matter in accordance with law, if so advised.

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

(G. Anupama Chakravarthy, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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