

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10324 of 2025

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Rahul Kumar, Son of Nand Kishor Sahni, Resident of Ward No. 14, Village-
Kabauli Ram, Khaira, Police Station- Pusa, District- Samastipur, Bihar, Pin-
848131.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Civil Supply
Department, Old Secretariat, Patna.
2. The Secretary, Food and Civil Supply Department, Old Secretariat, Patna.
3. The District Magistrate, Samastipur.
4. The Licensing Authority-cum-Sub Divisional Officer, Samastipur.
5. The Sub Divisional Officer, Samastipur.
6. The Block Supply Officer, Pusa, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeet Kumar, Adv.
For the Respondent/s : Mr.Standing Counsel (5)

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

5 04-09-2025

Heard learned counsel for the parties.

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

*“(I) For direction/directions, order/orders upon
the concerned respondent to produce / bring on
record and serve a copy of the enquiry report
issued by the Block Supply Officer, Pusa,
Samastipur vide Memo No. 111 dated
25.11.2023, also, to produce / bring on record
and serve a copy of the each of show cause
notices which were issued by the Sub Divisional
Officer, Samastipur, to the petitioner vide Memo
No. 1584 dated 09.12.2023, vide Memo No. 77*



dated 23.01.2024, vide Memo No. 56 dated 13.02.2024 and vide Memo No. 1210 dated 13.08.2024 and also the reply thereof, which has been filed by the petitioner.

It is stated that those documents have been misplaced from the possession of the petitioner and petitioner has also made a request to the licensing authority for supply of those documents. application under the provision of RTI, Aet has been made by till supplied to the petitioner.

(11) For quashing of the order contained in Memo No. 1267 dated 24.08.2024 issued under the signature of the Sub Divisional Officer, Samastipur whereby and where under the PDS license of the petitioner namely, Rahul Kumar for Public Distribution Shop situated at Panchayat- Kubauliram, Block Pusa, District Samastipur, bearing Licence No. 88/19, FPS ID. 122100200737 has been cancelled with immediate effect and the monthly allotment of the shop has been cancelled, on the basis of an enquiry conducted on 25.11.2023 and the enquiry report submitted by the Block Supply Officer, Pusa, Samastipur, vide Letter No. 111 dated 25.11.2023.

That it is stated that the aforesaid procedure of the cancellation of PDS licence is in complete violation of the Principle of Natural Justice and contrary to the Principle of Settled law.”



3. Learned counsel appearing on behalf of the petitioner has stated that the Sub-Divisional Officer while issuing the show cause notice to the petitioner has not enclosed the enquiry report.

4. Further learned counsel has relied on the judgment of this Hon'ble Court in CWJC No.253 of 2014 dated 11.03.2015 wherein this Hon'ble Court has held that the non-supply of the enquiry report along with the show-cause is bad and against the principle of natural justice and equity.

5. Learned counsel has stated that 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 furnishing a copy of the enquiry report and any other material that they seek to rely on and give an opportunity of filing his explanation 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 an alternative and efficacious remedy of filing an appeal before the District Magistrate. Learned counsel has therefore prayed this



Hon'ble Court to dismiss the present writ petition.

7. This Court in CWJC No.253 of 2014 dated 11.03.2015 held as under:

"In my opinion, irregularities in maintenance of notice board or maintenance of the stocks within the premises of the petitioner are too trivial and cannot form a basis for cancellation of licence. No doubt there were other serious charges against the petitioner regarding non-issuance of cash-memo to the consumers, distribution of lesser amount of kerosene oil and non-distribution of food-grains but surprisingly even while making such allegations, the names of such consumers who are dissatisfied by such action of the petitioner are conspicuously missing. The allegations are sweeping in nature without reference to any specific consumer.

In my opinion the non-supply of the enquiry report conducted by the District Level Committee which is the foundation for issuance of show cause notice placed at Annexure-1 as well as non-supply of names of such of the consumers who had complained against the petitioner as regarding the irregularities in distribution of the food-grains or the kerosene oil has prejudiced the petitioner to file his purposeful reply and in absence thereof, the order impugned in my opinion, are based on no materials.

Though it was strenuously argued by Mr. Pandey that in absence of any response by the petitioner the allegations would be deemed to have been admitted but in my opinion even if the show cause reply was missing, the orders passed by the statutory authorities having civil



consequences and resulting in cancellation should reflect application of mind. Unfortunately it is grossly missing inasmuch as neither the order of the Licensing Authority nor the order of the appellate authority deal with the materials which formed the basis to drive home the charges. The orders impugned are indefensible and cannot be upheld."

8. A perusal of the show-cause notice issued to the petitioner does not reveal that the copy of the enquiry report was enclosed along with the show-cause notice.

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 dated 24.08.2024 passed by the Sub-Divisional Officer is set aside. The matter is remanded back to the Sub-divisional Officer (Respondent No. 5) for furnishing a copy of the enquiry report and any other material relied on the petitioner and call for his explanation by giving reasonable time.

10. On such show-cause notice being served, the petitioner shall file his 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



order, 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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