

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13892 of 2024

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Barister Ray, son of Shivpujan Ray, Resident of village- Bamo, P.S.-
Baikunthpur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supplies,
Government of Bihar, Patna.
2. The Secretary, Food and Civil Supplies, Government of Bihar, Patna.
3. The Divisional Commissioner, Saran.
4. The District Magistrate cum Collector, Gopalganj.
5. District Supply Officer, Gopalganj.
6. Sub-Divisional Officer, Gopalganj.
7. Block Supply Officer, Baikunthpur, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Naresh Chandra Verma, Adv.
For the Respondent/s : Mr.Standing Counsel 24

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

6 28-07-2025 Heard learned counsel for the parties.

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

*“.....for quashing the order dated
19.03.2024 passed by Respondent No.2 as
contained in Annexure-7 and order dated
23.06.2023 passed by the Court of Learned
Divisional Commissioner Saran Division in
Supply Revision Case No. 134 of 2022 as
contained in Annexure-5 whereby where under
the Learned Commissioner has affirmed the
order dated 11.12.2019 passed by the Learned*



Collector cum District Magistrate Gopalganj in Supply Appeal No. 09 of 2019 as contained in Annexure-4 and order dated 05.03.2019 passed by Subdivisional Officer Gopalganj passed in supply Case No. 09 of 2019 as contained in Annexure-3 whereby and whereunder the license of Petitioner has been cancelled without considering the show cause reply and relevant materials on record and without hearing him.”

3. Learned counsel appearing on behalf of the petitioner has stated that the shop of the petitioner was inspected on 01.03.2019 at 1.50 p.m. and the show cause notice was issued to the petitioner alleging that he has not kept the shop open among other. Learned counsel appearing on behalf of the petitioner states that as per Rule 15 of the Bihar Targeted Public Distribution System (Control) Order, 2016, the petitioner is obligated to keep the shop open from 7 a.m. to 1 p.m. from March to August and from 8 a.m. to 2 p.m. from September to February. Learned counsel has stated that the authorities without taking the same into consideration have passed the order cancelling the license of the petitioner. Learned counsel has stated that though the petitioner has preferred an appeal, revision as well as the representation to the Principal Secretary under the provisions of the Control Order, the authorities have



passed the order in a mechanical manner without advertting to Rule 15 of the Control Order, 2016. Learned counsel has stated that the order passed by the authority is liable to be set aside on the sole grounds that the authorities did not have taken into consideration the explanation submitted by the petitioner and also Rule 15 of the Control Order, 2016.

4. *Per contra*, the learned counsel appearing on behalf the respondents-State has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that there are serious allegations against the petitioner and the authorities duly taking into consideration the same have cancelled the license of the petitioner. Learned counsel has stated that all the four authorities, i.e., the Primary, Appellate, Revisional as well as the Principal Secretary have found the petitioner guilty of the violations of the provisions of the Control Order and therefore, this Hon'ble Court sitting under Article 226 of the Constitution of India cannot interfere with the orders passed and they are in consonance with the provisions of the Act. Leander counsel has therefore, prayed this Court to dismiss the present writ petition.

5. It is admitted fact that the shop of the petitioner was inspected by the Block Development Officer on 01.03.2019



at 1.50 p.m. Rule 15 of the Bihar Targeted Public Distribution System (Control) Order, 2016 reads as under:-

*"15: **Working 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. Admittedly in this case the inspection has taken place on 01.03.2019 after 1 p.m., there was no obligation on the part of the shopkeeper to keep the shop open after 1 p.m.. Further it is to be noted that though the shop was kept closed as per the provisions of the Act, the authority has collected the complaint from the consumers, it is not understandable as to how the authority has collected the information that the shop of



the petitioner itself is closed.

7. Having regard to the above mentioned facts and circumstances, the impugned orders dated 19.03.2024, 23.06.2023, 11.12.2019 and 05.03.2019, respectively, passed by the Secretary, Food and Civil Supplies, the Divisional Commissioner, Collector and the Sub-Divisional Officer, Gopalganj, are set aside. The PDS license of the petitioner is restored. The authorities are directed to resume the supply of grains to the petitioner as expeditiously as possible preferably within a period of six weeks from the date of receipt of the copy of this order.

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

(A. Abhishek Reddy , J)

Bhardwaj/-

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