

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15384 of 2024

Ashok Kumar son of Ramnaresh Prasad resident of village Nai Bazar,
Mairwa, P.S.- Mairwa, District- Siwan

... .. Petitioner/s

Versus

1. The State of Bihar through the principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, District - Siwan.
3. The Sub - Divisional Officer, Siwan Sadar, District - Siwan.
4. The Assistant District Supply Officer, Siwan Sadar, District - Siwan.
5. The Block Supply Officer, Block - Mairwa - District - Siwan

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kumar Gaurav, Adv.
For the Respondent/s	:	Mr. Government Pleader (11)
	:	Ms. Dimpal Kumari, AC to GP11

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

5 08-05-2025 Heard the learned counsel for the parties.

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

“1. This Writ application is being filed on the behalf of the petitioner above named for issuance of an appropriate writ, order and direction for quashing the order passed by the Sub Divisional Officer, Siwan Sadar issued vide Memo No. 156 dated 05/02/2021 whereby and where under license of the petitioner’s PDS shop bearing License No. 77/2016 has been cancelled on the basis of wrongly & access quantity of food grains uploaded in the Petitioner’s Epos Machine No. 121800300623 for which neither any S.I.O. has been issued nor the petitioner has received the said grains in question and up to date his Epos machine as per stock received by the petitioner and



distribute the same amongst the beneficiaries and further for direction to the licensing authority to restore the petitioner's shop as before and to make the allotment for the same."

3. It is the case of the petitioner that the Block Development Officer has inspected the PDS shop of the petitioner on 19.11.2020 at 2:30 P.M.

4. Learned counsel for the petitioner has stated that the inspection of the shop after closing hours ie., 2.00 P.M is totally illegal and bad and therefore, same cannot be the basis for issuing the show cause notice or canceling the license of the petitioner. Further, learned counsel has stated that though the petitioner has submitted a detailed explanation, the SDO instead of passing the order on merits duly taking into consideration the explanation submitted by the petitioner has sent the show cause to the ADSO, Arrah and obtained his opinion which is contrary to the provisions of the Act. Further, the SDO has passed the order vide memo No. 156 dated 05.02.2021 whereby it has been observed that ADSO has not found the show cause filed by the petitioner satisfactory and accordingly, he recommended to cancel the licnese of the petitioner.

5. Learned counsel has submitted that as per Rule 15 of the Control Order, 2016 the petitioner is obligated to keep the shop open from 08.00 am to 02.00 pm and the shop of the



petitioner was closed after the stipulated time at 02.00. Learned counsel has prayed this Hon'ble Court to allow the present writ petition by setting aside the impugned order.

6. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the maintainability of the present writ petition and stated that the authority concerned duly taking into consideration the allegations against the petitioner has inspected the PDS shop of the petitioner and thereafter, issued show cause. The authority has found the allegation against the petitioner serious in nature and having found the explanation of the petitioner not satisfactory, canceled the license of the petitioner. Learned counsel has therefore, prayed this Court to dismiss the present writ petition.

7. In order to resolve the issue in the present Writ Petition it is necessary to extract the provisions of the Act of the Bihar Targeted Public Distribution System (Control) Order, 2016, i.e., more particularly Rules 15 and 25(i)(a) of the Control Order, which are stated as follows:

"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."

"25. Action against a licensee.

(i) In view of the order passed by the Hon'ble Supreme Court in Civil Writ 196/01, action shall be taken against the licensees in the following circumstances :-

Licensees who,

(a) do not keep their shops open throughout the month during the stipulated period;

8. Admittedly, in the present case the inspection of the shop has taken place on 19.11.2020 at 02:30 P.M i.e., after the stipulated time. There is no legal obligation on the petitioner to keep the shop open after the stipulated time, ie., after 2.00 pm and as such it cannot be said that the petitioner has violated the provisions of the control order. The impugned action of the respondents canceling the license of the petitioner on the above stated ground has to be necessarily set aside.

9. Further as pointed by the petitioner the authority has relied on the opinion given by the ADSO for passing the order of cancellation. The SDO having received the explanation from the petitioner, ought to have applied his mind and passed a reasoned order. Reliance on the opinion of ADSO, for passing the order cannot be countenanced and amounts to abdication of duties by the SDO. Further it is to be noted that the statements made by the complainant-beneficiaries have not been furnished to the petitioner. On this ground also the impugned order is



liable to be set aside.

10. Having regard to the above mentioned facts and circumstances the impugned order dated 05.02.2021 passed by the S.D.O, Siwan Sadar, District-Siwan is hereby set aside. The PDS license of the petitioner is restored. The authorities are directed to restore the supply of grains to the petitioner at the earliest.

11. With the above direction, the present writ petition stands allowed.

(A. Abhishek Reddy, J)

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