

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21829 of 2018

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Rehana Usmani wife of Ali Imam, Resident of Village- Chhata, Police Station- Masaurhi, District Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Divisional Commissioner, Patna.
3. The District Magistrate, Patna.
4. The Sub Divisional Officer, Masaurhi.
5. The Additional District Magistrate Supply, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, Sr. Advocate
For the Respondent/s : Mr. S.Raza Ahmad -AAG 5

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 28-03-2025

1. The petitioner has filed the Writ application for the following reliefs:

“That the Petitioner in the instant writ application crave leave to invoke the extraordinary and equitable writ jurisdiction for administration of justice and for quashing the order dated 07.08.2018 passed in Revision No. 101/2017 by the Divisional Commissioner, Patna and further prays for quashing the appellate order dated 27.06.15 passed in Appeal No. 43/2014-15 as well as cancellation



order as contain in Memo No. 08 dated 15.01.2013 passed by the Respondent No. 3, District Magistrate, Patna and Respondents No. 4, Sub Divisional Officer, Masuari respectively by which the license of the Petitioner has been cancelled on the ground that the Order has been passed without issuing any Show Cause Notice in connection with proposed cancellation which is violation of the principles of natural justice as well as the Clause 7(II) of the Control Order 2001 and the cancellation order as well as the appellate order an Revisional order had been passed without following the law settled by this Hon'ble Court in Case of the C.W.J.C. No. 693/2014 (Batoran Mandal Vs State of Bihar and others)."

2. The brief facts culled out of the petition are that the licence of the petitioner bearing Licence No. 7/2007 for running a shop under the Public Distribution System was cancelled by the Sub-divisional Officer, Masaurhi vide Memo No. 08 dated 15.01.2013 which was affirmed by the appellate authority i.e. the District Magistrate,



Patna as well as the revisional authority i.e. the Divisional Commissioner vide appellate order dated 27.06.2015, in Appeal No. 43 of 2014-15 and vide order dated 07.08.2018 passed in Revision No. 101/2017 respectively.

3. Heard Sri Anand Kumar Ojha, the Learned Senior counsel for the petitioner as well as the Learned counsel for the State.

4. At this juncture, the Learned Senior 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 Senior 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.

5. 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.

6. 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”

7. In view of the fact that this matter is squarely covered by the aforesaid judgment, the Writ petition is allowed in light of the judgment passed in **Ghuran Paswan (supra)**, and the impugned orders dated 15.01.2013 (Annexure-3), 27.06.2015 (Annexure-7) and 07.08.2018 (Annexure-9) are, hereby, quashed.

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

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

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.04.2025
Transmission Date	

