

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.902 of 2025

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Rajkishor Prasad, Son of Late Ramayan Prasad, Resident of Village - Ladhi Sarai, P.S.- Goriakothi, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Divisional Commissioner, Saran, Chapra.
3. The District Magistrate, District - Siwan.
4. The Sub-Divisional Officer, Maharajganj, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Gaurav @ Gaurav Gosh, Advocate.
For the Respondent/s : Mr. Government Pleader (17) with
Mr. Amit Bhushan, AC to GP-17.

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

6 19-08-2025 Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the following reliefs:-

*“A. For issuance of an appropriate writ, order and direction for Certiorari for quashing and setting aside order passed by the Sub-Divisional Officer, Maharajganj vide memo No. 348 dated 21.09.2007 whereby and whereunder license of the petitioner’s PDS shop bearing License No. 01/2001 has early been suspended and subsequent to that license and agreement of the petitioner has been cancelled contained therein **Annexure-1** & also for quashing & setting aside the order dated 01.11.2024 passed by the learned Divisional Commissioner, Saran, Chhapra in PDS Supply*



Revision Case No. 111/2024 contained therein Annexure-2 whereby and whereunder the revision filed by the petitioner against the appellate order has been rejected without considering merit & fact of the case and further also quashing and setting aside the order dated 12.06.2023 passed by the learned collector cum District Magistrate, Siwan in PDS Appeal Case No. 79/2023 contained therein Annexure-4 whereby & whereunder appeal filed by the petitioner against the cancellation order has been rejected only on the ground of default in continued absence.

***B.** For issuance of an appropriate writ, order and direction for a Mandamus commanding the respondents to restore the petitioner's license and consumers of the petitioner's shop like before and to make the allotment for the same as before."*

3. It is the case of the petitioner that the authority after inspection of the shop on 21.04.2006 has suspended the license of the petitioner on 13.05.2006, thereafter, the order of cancellation has been passed on 21.09.2007. The petitioner has filed CWJC No. 7181 of 2022 in the year, 2022 and thereafter he has withdrawn the same vide order dated 03.08.2022 seeking to file an appeal against the order of cancellation. The appeal was heard by the appellate authority and the same was dismissed vide order dated 12.06.2023. Thereafter, the petitioner has preferred a revision, the same was also dismissed on 01.11.2024.

4. Learned counsel appearing on behalf of the



petitioner has stated that the authority without following the provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as 'the Control Order') have passed the order of cancellation of the license in a mechanical manner and both the appellate as well as the revisional authority have not appreciated the facts involved in the present writ petition and dismissed the same by a pedantic order. Learned counsel has stated that suspension of the license was done on 13.05.2006 but the cancellation was done on 21.09.2007 i.e. after a lapse of 90 days. Learned counsel has stated that the authority ought to have revoked the suspension order and restored the license of the petitioner and then issued him a show-cause notice. However, in this case, the authority without following the procedure has cancelled the licence beyond the period prescribed under the Control Order, 2016. Learned counsel has stated that the petitioner is a poor person and does not have any legal knowledge and, therefore, there has been a delay in approaching this Hon'ble Court and then filing the appeal. Learned counsel has, therefore, prayed this Court to allow the present writ petition.

5. Per contra, the learned counsel appearing on behalf of the respondents has opposed the very maintainability of the



present writ petition. Learned counsel has stated that the petitioner has slept over his rights for over 15 years. That after the order of cancellation which was passed in the year, 2007, the petitioner has come before this Court only in the year, 2022 by way of a writ petition and the same was subsequently withdrawn with a leave to file a statutory appeal. That as per the provisions of the Act any person who is aggrieved by an order of cancellation has to file an appeal within a period of 30 days. However, in this case, the petitioner has filed the appeal after nearly 15 years. Learned counsel has stated that both the appellate as well as the revisional authority did not find any merit in the present case and have dismissed the appeal and revision respectively. Further, it is stated by the learned counsel that the petitioner has indulged in black-marketing of nearly 1910 liters of Kerosen Oil and, therefore, the order of cancellation of license has being passed. Learned counsel has, therefore, prayed this Court to dismiss the present writ petition.

6. Admittedly, in the present case, the license of the petitioner was cancelled on 21.09.2007 and, thereafter, he has kept quiet for a period of nearly 15 years and then filed a CWJC No. 7181 of 2022 which he has been withdrawn with a leave to file an appeal. Merely because the petitioner has obtained leave from this Hon'ble Court for filing an appeal it does not mean that



the period of limitation which is envisaged for filing the appeal i.e. 30 days can be ignored. There is absolutely no whisper either in the writ petition or in the grounds of appeal or the revision with regard to the delay in approaching the appellate authority in filing the appeal against the order of cancellation dated 21.09.2007. This Court as well as the Hon'ble Supreme Court in a catena of cases has time and again held that a person who is slept over his rights for years together cannot seek any relief without giving a proper explanation for the delay. When the statute prescribes the period of limitation of 30 days for filing a statutory appeal under Section 32(ii) of the Act, the petitioner has to necessarily explain the delay in filing the appeal after 15 years.

7. Having regard to the above mentioned facts and circumstances, this Court does not find any merit in the present case which warrants any interference by this Court. The present writ petition is, accordingly, **dismissed**.

(A. Abhishek Reddy, J)

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