

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13448 of 2018

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Abhay Kumar Pandey Son of Bipin Bihari Pandey, Resident of Village-
Baijani, Pandey Tola, P.S.- Jagdishpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Food and Civil Supply, Govt. of Bihar, Patna.
3. The District Magistrate, Bhagalpur.
4. The S.D.O. Sadar, Bhagalpur.
5. The District Supply Officer, Bhagalpur.
6. The Block Supply Officer, Jagdishpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Karna, 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 : 08-07-2026

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

“For issuance of a writ of certiorari or any other appropriate writ order or direction for quashing the letter dated 19.04.2018 contained in memo no. 266 issued by the respondent no. 4 the S.D.O. Sadar Bhagalpur by which he has most arbitrarily and quite erroneously cancelled the petitioner's fair price shop bearing License no. 22 of



2016 without considering the show cause of the petitioner,

(ii) For issuance of a writ of mandamus or any other appropriate writ order and direction commanding the respondent authorities to permit the petitioner to run his fair price shop by setting aside the aforesaid impugned order which is under challenge,

(iii) For grant of any other relief or reliefs for which the petitioner may be entitled, deemed fit and proper in the facts and circumstances of the case.

2. The brief facts culled out of the petition are that the petitioner was granted PDS Licence No. 22/2016 for running a Fair Price Shop at Baijani Gram Panchayat, District Bhagalpur, and had been discharging his duties without any complaint. It is submitted that a show-cause notice vide Memo No. 199 dated 02.04.2018 was issued alleging that, during inspection, the shop was found closed, the notice board was absent, food



grains for two months had been distributed together, entries in ration cards were not properly made, and food grains were supplied at rates higher than the prescribed rates. The petitioner submitted a detailed reply on 13.04.2018 denying the allegations and explaining that the shop was closed on the inspection date as he had gone to meet the Officer-in-Charge of Jagdishpur Police Station on being called. He also denied the allegations of short distribution and overcharging and explained the entries made in the ration cards.

3. It is submitted by the Learned counsel for the petitioner that, without considering his reply and without recording any finding as to which condition of the licence or provision of the Control Order had been violated, the Sub-Divisional Officer, Sadar, Bhagalpur, by Memo No. 266 dated 19.04.2018, cancelled his PDS licence. According to the petitioner, the impugned order is non-speaking, reflects no application of mind to the explanation submitted by him, and has been passed in violation of the statutory provisions as



well as the principles of natural justice. It is further contended that the show-cause notice merely sought an explanation regarding the alleged irregularities and did not propose cancellation of the licence, nor was any separate notice indicating the proposed cancellation issued before passing the impugned order. On these grounds, the petitioner seeks quashing of the order dated 19.04.2018 cancelling his PDS licence.

4. At this juncture, the Learned Counsel for the petitioner draws the attention of this Court to the order passed by a Division Bench of this Court in **CWJC No. 21135 of 2021 (Pinki Kumari @ Pinki Singh Vs. The State of Bihar & Ors.)**, and an order passed by a Co-ordinate Bench of this Court in **CWJC NO. 9309 of 2020 (Arun Singh @ Arun Kumar Singh Vs. The State of Bihar & Ors)** on the basis of observation made in **2015(2) PLJR 910 (Raghuvir Prasad Vs. The State of Bihar & Ors.)**. The Learned Senior Counsel contends that this matter is squarely covered by the aforesaid judgments



passed by this Court. 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 this Court in **Pinki Kumari (supra)** and submits that this matter may be disposed of on the same terms and conditions as outlined in the aforesaid judgment.

6. Heard the Learned Senior counsel for the petitioner as well as the Learned counsel for the State.

7. I have perused the aforesaid judgments/orders passed by this Court. For better appreciation of the facts, relevant portion of **Pinki Kumari (supra)** is quoted hereinbelow:

“ 5. Mr. Ojha has drawn the attention of this Court to a judgment of the Supreme Court in Institute of Chartered Accountants of India Vs. L.K. Ratna; 1986 (4) SCC 537 in which, it has been held that even if the appellate decision cannot be faulted for being a reasoned order,



but if it was against an order by the original/Licensing Authority which did not actually apply its mind, such manifest original defect could not be restituted/cured by the Appellate Authority.

6. The aforesaid observation was made by the Bench in that case, it has been argued, for the reason that there is a necessity to ensure that there is no breach of fundamental procedure in the original proceedings and also to avoid treating the appeal as an overall substitute for the original proceedings.

7. We find force in the submission of the learned counsel for the petitioner.

8. For the reason aforesaid, we set-aside the original as well as the appellate order and remand the matter to the Licensing Authority for him to pass a reasoned order, after giving fresh opportunity to the petitioner to explain his cause.

9. We do not proscribe the Licensing Authority for asking for any opinion from any sub-ordinate



Authority but that opinion shall be seen in the context of the reply made by the petitioner and in case the opinion is to be relied upon, necessary reasons will have to be adverted to in the order. Only then the order could be said to be reasoned one.

10. We make it clear that we have not expressed any opinion with respect to the merits of the case.

11. Should the petitioner bring to the notice of the Licensing Authority, a copy of this order within a period of thirty (30) days, the process shall be initiated by the Licensing Authority and it shall be concluded within a further period of sixty (60) days thereafter.

12. With the aforesaid observation/direction, the writ petition stands disposed off.

8. In view of the fact that this matter is squarely covered by the aforesaid judgment, the Writ application is allowed, in light of the judgment passed in **Pinki Kumari** (supra), and the impugned orders dated 19.04.2018 (Annexure-3),



is, hereby, quashed.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.07.2026
Transmission Date	

