

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4151 of 2023

Ashok Sah @ Ashok Kumar Sah, Son of Chhedi Sah, Resident of Vilalge-Mishra Bandhaura, P.O. and P.S. and Block-Vijaipur, Sub-Division-Hathua, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna.
3. The Commissioner, Saran Division, District-Saran, at-Chapra
4. The Collector-cum-District Magistrate, Gopalganj, District-Gopalganj.
5. The District Supply Officer, Gopalganj, District-Gopalganj.
6. The Sub-Divisional Officer, Hathua, District-Gopalganj.
7. The Block Supply Officer, Vijaipur, District-Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey No.5, Advocate.
For the Respondent/s : Mr. Arvind Ujjwal (SC 4).

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

13 31-03-2026 Heard the learned counsel for the parties.

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

“For the issuance of an appropriate writ/direction/order for:-

A. Quashing the order dated 23.09.2022 passed in Supply Revision Case No. 199/2016 passed by the learned Court of the Divisional Commissioner, Saran Division, Chapra. (Annexure-8, Page-34).



B. And further, for the quashing of the order dated 15.07.2016 passed in Supply Appeal Case No. 12/2016 passed by the court of the learned Collector Gopalganj (Annexure 6 Page 29).

C. And further for the quashing of the Memo No. 43/MU, dated 17.03.2016 issued by the Sub-Divisional Officer, Hathua by which the P.D.S license of the Petitioner was cancelled.

D. And further for a direction to the Respondent Authority to restore the license of the Petitioner and further to restore the Supply of food grains to the Petitioner; On amongst others the following grounds :-

i. For that the learned Sub-Divisional Officer, Hathua has cancelled the license of the Petitioner without appreciating the show cause dated 15.03.2016 (Annexure 4, Page-21) submitting by the Petitioner.

ii. For that the greatest illegality committed by the Original Authority the Sub-Divisional Officer, Hathua is that the Sub-Divisional Officer, Hathua has observed that the Petitioner has created the evidences, just to frustrate the show cause notice, issued by the authority.

iii. For that the Original Authority has not explained the facts and circumstances-relying upon which the Original Authority has come to the conclusion that the Petitioner has created the evidences, just to frustrate the show cause issued by the authority.

iv. For that the Original Authority learned Sub-Divisional Officer, Hathua has totally ignored the calculations and evidences submitted by the Petitioner.



v. For that the Original Authority has totally over looked the compelling circumstance, in which the wife of the petitioner was diagnosed a cancer patient and ultimately she died on 01.05.2018.

vi. For that the Appellate Authority learned Collector Gopalganj has discussed the allegations made upon the Petitioner and thereafter, all of sudden, came to the conclusion that the order of the Original Authority is good in law.

vii. For that the Revisional Authority has also concurred the finding of the learned Collector, Gopalganj and has dismissed the Supply Revision Case No. 199/2016.

viii. For that all the three orders passed by the authorities are bad in law due to the non consideration of the evidences, adduced the Petitioner.

ix. For that, all the orders impugned, suffer from the defect of non application of mind and for the defect of declaring the evidences adduced by the Petitioner, as a fabricated evidence, without any bases behind this finding.

x. For that due to arbitrary orders passed by the respondent authorities the petitioner has suffered an irreparable injury.

xi. For that due to the arbitrary order passed by the respondent authorities the fundamental right of the petitioner as ensuing in the constitution of India has been violated.”

3. Learned counsel appearing on behalf of the petitioner submits that the shop of the petitioner was inspected by the authority on 25.02.2016 on which day the petitioner due



to his illness had closed the shop. The authority on the ground that the shop of the petitioner is closed without taking necessary permission and also finding that the storage of the food-grains was situated at another place without taking permission from the competent authority has cancelled the PDS licence issued in favour of the petitioner. Learned counsel submits that the closure of the shop for one day cannot be a ground for cancelling the PDS license of the petitioner and has relied on the judgment passed in CWJC No. 2387 of 2023 dated 10.04.2023. Learned counsel further submits that though the petitioner has made an application through a public representative *vide* Letter No. PA/CH/4308 dated 12.06.2015 (Annexure-P/2), the authority have till date not passed any order and the same has not been denied in the counter-affidavit filed by the respondents-authorities. Learned counsel has, therefore, prayed this Hon'ble Court to set aside the impugned orders dated 23.09.2022 passed by the Divisional Commissioner, Saran Division, Saran at Chapra, the order dated 15.07.2016 passed by the Collector, Gopalganj and the order dated 17.03.2016 passed by the sub-Divisional Officer, Hathua and allow the present writ petition and direct the authorities to restore the license of the petitioner.



4. Per contra, the learned counsel appearing on behalf of the Respondent-State has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the petitioner without taking any prior permission from the competent authority has closed the shop on the date of inspection and the petitioner is in the habit of closing the shop. Further, the petitioner in contravention of Rule 17 the Bihar Targeted Public Distribution System (Control) Order has stored the food-grains at another place and no prior permission has been sought by the petitioner. The authority was well within its rights in cancelling the PDS license of the petitioner following the due procedure established under the law. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. A Coordinate Bench of this Hon'ble Court in CWJC No. 2387 of 2023 dated 10.04.2023 has held as under:-

“8. In the opinion of this Court, merely on account of closure of a shop on a particular date, cannot invite cancellation of licence. It is to be noticed that granting of a P.D.S. licence could not be treated in the ordinary sense to be similar to any other licence. Once a licence is granted, it is a means of livelihood not only for the petitioner but his entire family. In such circumstances, due caution and care should be taken by



the authorities before cancelling a licence and apart from giving fair opportunity of hearing to the concerned licence holder in term of Rule 27, it is also necessary that a copy of the enquiry report should be provided and, if the same is contested, then an opportunity to cross-examine the complainant should also be provided by the concerned authority to the allottee/licencee.”

6. Further, it is to be seen that the petitioner has made an application for shifting of the shop through a public representative *vide* Letter No. PA/CH/4308 dated 12.06.2015 (Annexure-P/2) and in the counter-affidavit filed by the respondent-authorities except stating that the petitioner has not taken any permission the factum of the petitioner having submitted an application seeking permission for shifting of the shop has not been denied.

7. Rule 17 of the Bihar Targeted Public Distribution System (Control) Order reads as under:-

“17. Change in a fair price shop’s business place:-

(i) If the licensee wants change in storage place of essential commodities or business place as described in the license, the licensee shall submit to the licensing authority an written application for this purpose stating reasons and identification details of the proposed place of change.

(ii) The licensing authority shall take a decision of accepting or rejecting the



application within a fortnight from the date of its receipt. If the petition is accepted, the licensing authority shall order for necessary changes in the license and in the office's license register.

(iii) If no decision is taken within a fortnight by the licensing authority, the licensee may store or begin business of the essential commodities at the proposed place for change with the prior permission of the District Officer.

(iv) The licensee may shift the storage or business place of the essential commodities without permission of the licensing authority at a place not described in the license in emergency situations (such as earthquake, flood, or other reasons like sudden damage in the building, etc), and shall give its written information to the licensing authority within 72 hours, and in accordance with sub clauses 1, 2, and 3 the proposed change will be effected."

8. Having regard to the same, the impugned order dated 23.09.2022 passed by the Divisional Commissioner, Saran Division, Saran at Chapra, the order dated 15.07.2016 passed by the Collector, Gopalganj and the order dated 17.03.2016 passed by the sub-Divisional Officer, Hathua are all set aside. The authority is directed to restore the PDS license of the petitioner as expeditiously as possible preferably within a period of three weeks from the date of the receipt of the copy of this order.

9. With the above directions, the present writ petition



stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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