

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7256 of 2025

=====

Braj Kishore Singh Son of Late Nagendra Singh, Resident of Village -
Madhaul, P.S. - Maniyari, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Sub Divisional Officer, (West), District- Muzaffarpur.
3. The Block Supply Officer, Kudhani, District- Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Adv. Mr. Kumar Rajdeep, Adv. Mr. Roop Kishan, Adv.
For the Respondent/s	:	Mr. Government Pleader (7) Ms. Roona, AC to GP 7 Mr. Sanjay Kr., AC to GP 7

=====

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

3 31-01-2026 Heard the parties.

2. The present writ petition is filed for the following

relief(s):-

“a. For issuance of a writ in the nature of Certiorari for quashing the Order dated 30.01.2025 vide letter no 154 passed by the Sub-Divisional Officer, West, Muzaffarpur on remand from the order of this Hon'ble court in CWJC Case No. 14231 of 2024 dated 26.11.2024, now by order dated 30/01/2025 the Learned S.D.O. West, Muzaffarpur has again cancelled the petitioner's license keeping the previous order of cancellation dated 16.12.2017 as it is which is in violation of the principles of Natural Justice, in as much as the Impugned Orders have been passed



without considering the facts and circumstances of the case.

b. A mandamus commanding the Respondents to restore the petitioner's license as before and to make allotment for the petitioner's shop.

c. For issuance of any other relief or relief(s) for which the petitioner is entitled in the fact and circumstances of the present case may be granted to him.”

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner was earlier appointed as PDS dealer in the year 2016 and has been functioning without any complaint. That the Block Supply Officer had inspected the shop of the petitioner on 22.07.2017 and submitted his report. Thereafter the authority, i.e., the Respondent No. 2 herein has issued a show cause notice to the petitioner and the order of cancellation was passed by the authority on 16.12.2017. Though the petitioner has preferred an appeal before the District Magistrate as well as the revision before the Divisional Commissioner the same has met without any success and both the authorities while dismissing the appeal and Revision have confirmed the order of cancellation. Thereafter the petitioner has approached this Hon'ble Court by way of CWJC No. 14231 of 2024 and this Hon'ble Court vide order dated 26.11.2024 has set aside all the three orders passed against the petitioner, i.e., order



dated 09.05.2024 passed by the Revisional Authority, order dated 10.07.2023 passed by the Appellate Authority and also the order dated 16.10.2017 passed by the Sub-Divisional Officer and remanded the matter back to the Sub-Divisional Officer for passing orders afresh after issuing the petitioner a fresh show cause notice strictly in terms of the provisions of Rule 27(ii) of the Control Order, 2016. That the Sub-Divisional Officer after remand back by this Hon'ble Court has issued a fresh show cause notice to the petitioner on 17.12.2024 (Annexure P/2) and has passed the impugned order dated 31.01.2025 (Annexure P/4). Learned counsel has drawn the attention of this Court to the impugned order dated 31.01.2025, whereby the Sub-Divisional Officer while rejecting the explanation filed by the petitioner has held that the earlier order passed by him, dated 16.12.2017 holds good. Learned counsel submits that order of the Respondent No. 2 in reiterating the earlier order which has already been set aside by this Hon'ble Court is bad, illegal and contrary to law. Further the learned counsel has stated that because of the cancellation of the PDS license the petitioner has been suffering since the last more than eight years and the authorities are passing the orders in a pedantic and mechanical manner contrary to the provisions of the Control Order, 2016.



Learned counsel has therefore prayed this Hon'ble Court to allow the present writ petition, set aside the impugned order and direct the authorities to restore the PDS license of the petitioner.

4. Per contra, the learned counsel appearing on behalf of the respondents-State has vehemently opposed the very maintainability of the present writ petition. Learned counsel submits that the petitioner is having an alternative and effective remedy of filing a statutory appeal against the order of cancellation passed by the Sub-Divisional Officer dated 31.01.2025. Learned counsel has stated that in case the petitioner is aggrieved by the order of cancellation, he can file an appeal and take all the grounds that are taken in the present writ petition and assail the order passed by the Sub-Divisional Commissioner before the Appellate Authority i.e., the District Magistrate, Muzaffarpur. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the order passed by this Court in CWJC No. 14231 of 2024 dated 26.11.2024 reveals that the earlier order passed by the Sub-Divisional Officer dated 16.12.2017 and the orders passed by the Appellate and the Revisional Authority were all set aside and the matter was remanded back to the Sub-Divisional Officer for passing orders



afresh after issuing the petitioner a fresh show cause notice strictly in terms of the provisions of Rule 27(ii) of the Control Order, 2016. However a perusal of the show cause notice issued to the petitioner as well as the impugned order passed by the authority reveals that the authority has simply reiterated the earlier order passed by him which order was already set aside by this Court. This Court is of the opinion that the impugned order passed by the authority cannot be sustained in law, as the same is not only contrary to the provisions of the Act but also the orders passed by this Court in CWJC No. 14231 of 2024 dated 26.11.2024. The authority instead of passing the orders on merits has simply stated that the earlier order passed by him dated 16.12.2017 holds good. It is beyond the comprehension of this Court as to how the authority can reiterate an order, which has already been set aside by this Court. The authority instead of passing a fresh order on merits has simply stated that the earlier order holds good. The argument of the learned counsel for the State that the impugned order does not suffer from any infirmity is totally misconceived and misplaced. Once an order is set aside, the authority cannot rely on the very same order and reiterate the same while passing the order after remand.

6. Having regard to the same, the present writ petition



is allowed and the impugned order dated 31.01.2025 passed by the Sub-Divisional Officer is set aside. Having regard to the fact that the petitioner has been suffering since the last more than eight years, this Court is of the opinion that the petitioner has already suffered enough and no useful purpose will be served by remanding the matter again. Therefore, the authorities are directed to restore the license of the petitioner as expeditiously as possibly preferably within a period of 8 weeks from the date of receipt of the copy of this order. The authorities are directed to restore the supply of grains to the petitioner at the earliest.

7. With the above directions, the present writ petition stands allowed to the extent indicated above.

(A. Abhishek Reddy , J)

Bhardwaj/-

U			
---	--	--	--

