

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14593 of 2025

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Mamta Devi, Wife of Omkar Nath Prasad, Resident of Panchayat-, Bijhaura,
Village- Jamuaon P.S. - Itarhi, Block- Itarhi, District- Buxar.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate with
Mr. Kumar Rajdeep, Advocate.

For the Respondent/s : Mr. Government Pleader 14

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

4 11-05-2026 Heard the learned counsel for the parties.

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

“For issuance of a writ in the nature of Certiorari for quashing the order dated 04.02.2025 passed in BTPDS Control Revision No. 355 of 2023 by the Divisional Commissioner, Patna which was filed against the order dated 07.07.2023 in Supply appeal No. 05/2023 passed by District Collector, Buxar which was filed against the order dated 17.12.2022 passed by the Sub-Divisional Officer, Buxar by which PDS License No.



09/2018 of the petitioner was cancelled on the ground that the petitioner was closed for one day during inspection are liable to be set-aside as same have been passed 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.”

3. Learned counsel appearing on behalf of the petitioner has drawn the attention of this Court to the show-cause notice issued by the Sub-Divisional Officer, Buxar dated 13.09.2022 (Annexure-P/1). Learned counsel submits that the shop of the petitioner was closed on the day of inspection and besides the fact that the shop was closed on one day, there are no allegations against the petitioner. That the petitioner has filed her explanation on 22.10.2022 to the said show-cause notice *vide* (Annexure P/2). However, the authority without taking the same into consideration has passed the impugned order of cancellation dated 17.12.2022 (Annexure-P/3). Learned counsel has stated that the authority while passing the impugned order dated 17.12.2022 has taken into consideration the fact that on an earlier occasion also there were allegations against the petitioner. However, in the show-cause notice dated 13.09.2022 there was no averment to that effect. Though the petitioner has preferred a statutory appeal and revision, both the appellate as



well as the revisional authority have not considered the matter in a proper perspective and dismissed the appeal *vide* order dated 07.07.2023 and revision *vide* dated 04.02.2025 respectively (Annexures-P/4 & P/5). Learned counsel has relied on the judgment of this Hon'ble Court in CWJC No. 10213 of 2010 dated 22.06.2012 in support of his case and also a judgment passed by this Court in CWJC No. 3493 of 2025 dated 01.05.2025 (Annexure-P-7). Learned counsel, therefore, prayed this Hon'ble Court to set aside the impugned order and direct the authority to restore the PDS 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 submits that the petitioner is having an alternate remedy of filing a representation before the secretary under Rule 32(vii) of the Bihar Targeted Public Distribution System (Control) Order. Learned counsel submits that though the show-cause notice does not contain the details of the previous shortfalls of the petitioner while conducting her business. The authority is well within its rights to take into consideration the previous conduct of the petitioner and the same has been taken into consideration while passing the impugned order of cancellation. Learned counsel



submits that all the authorities have found that the petitioner was negligent in conducting the business and the previous allegations were serious in nature and the same was taken into consideration while passing the impugned order. That all the orders are well reasoned orders and no interference is needed by this Court in the present writ petition. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. Admittedly, as seen from the show-cause notice, the only allegation against the petitioner is that the petitioner's shop was closed on the day of inspection. Except the said allegation, there is no other allegation made against the petitioner in the said show-cause notice. Further, it is to be noted that while issuing a show-cause notice, the authority should include all the allegations or shortcomings of the person in running of the PDS shop, however in this case, the authority has not alleged anything with regard to the previous conduct of the petitioner. The only allegation found in the show-cause notice against the petitioner was that the PDS shop was closed on the day of inspection, however, in the impugned order of cancellation, the authority has taken into consideration the previous conduct of the petitioner also which is not permissible under law.



6. A Division Bench of this Hon'ble Court under similar circumstances in CWJC No. 10213 of 2010 dated 22.06.2012 has held as under:-

“We find that admittedly the petitioner did close the shop on the particular day. Though, the action of keeping the shop closed on one particular day was in breach of the terms and conditions of the licence and may not be justified, it was not such grave violation that would entail cancellation of licence.”

7. Having regard to the above, the impugned order passed by the revisional authority dated 04.02.2025, the appellate authority dated dated 07.07.2023 and the order of cancellation dated 17.12.2022 are all set aside. Further, it is to be noted that the license of the petitioner was cancelled in the year 2022 and this Court is of the opinion that the petitioner has already suffered enough for the lapse of closing the shop on one particular day without informing or taking prior permission of the authority.

8. Having regard to the same, the CWJC is allowed and the license of the petitioner is restored. The respondent-authorities are directed to resume the supply of the food-grains as expeditiously as possible preferable within a period of 4 weeks from the date of the receipt of the copy of this order.



9. With the above directions, the present Writ Petition
is allowed to the extent indicated above.

(A. Abhishek Reddy, J)

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