

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12953 of 2022

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Bal Krishna Jha Son of Late Natho Jha, resident of Village - Losghani, P.S. -
Piri Bazar, District - Lakhisarai, Bihar.

... .. 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, Munger.
3. The Collector-cum-District Magistrate, Lakhisarai.
4. The Sub. Divisional Officer, Lakhisarai.
5. The District Supply Officer, Suryagarha, District - Lakhisarai.
6. The Block Supply Officer, Suryagarha, District - Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s N.K.Agrawal, Sr. Advocate Kumar Rajdeep, Amresh Kumar Sinha, Advocates
For the Respondent/s	:	Mr.Arvind Ujjwal (SC 4)

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 13-07-2026

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

*"To set aside the order
dated 06.05.2022 passed by the Sub.
Divisional Officer, Lakhisarai, by which
P.D.S. License No.43/85 of the petitioner
has been cancelled."*

2. Inspite of the order dated
06.07.2026, no counter affidavit has been filed on
behalf of the respondents. However, the Sub-



Divisional Officer, Lakhisarai, namely, Mr. Prabhakar Kumar, is present in Court and tenders his apology for non-filing of the counter affidavit. He submits that the relevant records are not presently available as the file is missing and the process of reconstruction of the records is underway. In view of the explanation offered, the personal appearance of the Sub-Divisional Officer, Lakhisarai, is dispensed with.

3. The brief facts culled out of the Writ petition is that the petitioner was a licensed P.D.S. dealer whose licence was cancelled by the Sub-Divisional Officer, Lakhisarai, vide order dated 30.06.2014. The appeal preferred by the petitioner before the District Magistrate, Lakhisarai, and the revision before the Divisional Commissioner, Munger, were also dismissed. Aggrieved thereby, the petitioner approached this Court in C.W.J.C. No. 2794 of 2022. By order dated 09.03.2022, this Court set aside the aforesaid orders and remitted the matter to the Sub-Divisional Officer, Lakhisarai, for fresh consideration after giving the petitioner



an opportunity of hearing.

4. It is the petitioner's case that pursuant to the order of this Court, he appeared before the Sub-Divisional Officer in response to the notice dated 30.04.2022 and filed his show cause on 06.05.2022. According to the petitioner, the allegation against him was that he had not lifted kerosene oil and foodgrains for about one year. In his reply, the petitioner specifically stated that the allotment itself had been stopped by the Block Supply Officer during the relevant period and, therefore, he could not lift the commodities despite being ready and willing to do so. It is further stated that no fresh P.D.S. shop has been allotted and the consumers attached to his shop have been tagged with another dealer, due to which the petitioner has been suffering for more than eight years.

5. The Learned Senior counsel for the petitioner submits that the impugned order dated 06.05.2022 has been passed without properly considering the petitioner's explanation and without recording any finding that the petitioner



had deliberately failed to lift the allotted foodgrains and kerosene oil. It is contended that the alleged non-lifting was not intentional but was on account of stoppage of allotment by the departmental authorities. It is further submitted that the competent authority has taken into consideration irrelevant facts and has failed to comply with the spirit of the earlier order passed by this Court while reconsidering the matter. The Learned Senior counsel, therefore, submits that the impugned order is arbitrary and unsustainable in law and deserves to be set aside.

6. At this juncture, Mr. N.K.Agrawal, the Learned Senior Counsel for the petitioner submits that the issue involved in the present writ petition is no longer *res integra*. It is contended that the issue stands squarely covered by the order dated 09.07.2019 passed by a Co-ordinate Bench of this Court in **C.W.J.C. No. 3905 of 2019 (Pawa Pacs through its Chairman Vs. The State of Bihar & Ors)**, wherein an identical issue was considered and adjudicated. The Learned counsel for the



parties, therefore, submit that in view of the aforesaid order, the present Writ petition may also be disposed of, in terms of the order dated 09.07.2019.

7. In **Pawa Pacs** (supra) this Court has held as follows:

“Learned Senior Counsel submits that even in the fresh round the Sub-Divisional Officer, Bihar Sharif, Nalanda has committed the same mistake by issuing a show cause notice without proposing the cancellation of license, Annexure ‘6’ is the said show cause notice dated 27.10.2018. It is further submitted that in fact the Sub-Divisional Officer has reiterated in his fresh order that there is no need to modify the earlier order dated 04.09.2018 and the same is being kept intact which is wholly contemptuous and against the judgment of this Court passed in C.W.J.C. No. 19495 of 2018.

Learned counsel for the State is present. However, learned counsel admits that the show cause notice as contained in Annexure ‘6’ to the writ application is not in accordance with the Rule 27(ii) of the Control Order, 2016 as



also in tune with the Hon'ble Division Bench judgment of this Court in the case of Ram Bachan Ram Vs. The State of Bihar and others reported in 2018 (4) PLJR 516.

Having heard learned counsel for the petitioner and the State, this Court has no hesitation in recording that the Sub-Divisional Officer, Biharsharif, Nalanda has, in fact, not acted in accordance with law despite opportunity granted to him vide judgment dated 01.01.2018 passed in C.W.J.C. No. 19495 of 2018. He has neither issued a fresh show cause notice proposing cancellation nor has complied with the judgment of the Court rather he has made a totally wrong statement in the impugned order that the earlier order dated 04.09.2018 need not be modified. It is expected that the Sub-Divisional Officer, Biharsharif, Nalanda will follow the minimum standard of knowledge with regard to the law. Once an order of the Sub-Divisional Officer was set aside by this Court, he could not have reiterated that the said order need no modification. If considered strictly perhaps it may give rise to contempt proceeding against him. He will take care in future. The impugned order is hereby set aside



once again. The matter is remitted to the Sub-Divisional Officer, Biharsharif, Nalanda to proceed afresh in accordance with law. Since the impugned order has been set aside, license of the petitioner stands restored.

Let the whole exercise be completed within a period of 90 days from the date of receipt/production of a copy of this order.

The writ application stands disposed off accordingly.”

8. Having regard to the submissions made by the parties, the present writ petition stands disposed of in terms of the aforesaid judgment passed in **Pawa Pacs** (supra).

9. Accordingly, The impugned order 06.05.2022 is hereby set aside. The matter is remitted to the Sub-Divisional Officer, Lakhisarai to proceed afresh in accordance with law. Since the impugned order has been set aside, license of the petitioner stands restored.

10. Let the whole exercise be completed within a period of 90 days from the date of



receipt/production of a copy of this order.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2026
Transmission Date	

