IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14607 of 2026

CNR No. BRHC010895072026

==========

Yogendra Kumar Das S/o Aitabari Das @ Etwari Ram, Resident of Village- Chauni, P.S.- Kadwa, District- Katihar.

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Katihar.
3. The Sub-Divisional Officer, Barsoi, Katihar.
4. The Block Supply Officer, Kadwa, Katihar.

... ... Respondent/s

==========

Appearance :

For the Petitioner/s : Ms. Sarita Kumari, Advocate
Mr. Vijay Anand, Advocate

For the Respondent/s : Mr. Ram Tujabh Singh, SC 38

==========

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 19-11-2026

Heard Ms. Sarita Kumari, learned Advocate for the petitioner and Mr. Ram Tujabh Singh, learned Advocate for the State.

2. The challenge in the present writ petition is made to an order dated 25.09.2025 passed by the learned Sub-Divisional Officer, Barsoi, Katihar as contained in Memo No. 694 whereby and whereunder the PDS license granted to the petitioner for carrying out the business of Public Distribution Shop being

WEB COPY

License No. 1/96 under Panchayat Chauni, Block Kadwa, District Katihar was cancelled on the ground of sheer violation of Clause 25 of Bihar Targeted Public Distribution System Control Order, 2016 (hereinafter referred as “the Order, 2016”).

3. The short facts which led to the filing of the present writ petition are that the petitioner was holding a valid license bearing number 1 of 1996 and on being found his satisfactory performance, the same was renewed time to time till August, 2026. On 05.09.2025, the shop of the petitioner was inspected by the Block Supply Officer, Kadwa in terms of office letter no. 2141 dated 28.08.2025 through PDS Parakh App. In course of inspection, 66.0 quintals rice and 10 quintals wheat was found short compared to the stock of e-POS machine. The aforesaid incidence led to issuance of a show cause notice to the petitioner under letter no. 86 dated 08.09.2025 under the signature of the Sub-Divisional Officer, Barsoi, directing the petitioner to file his reply within three days.

4. A response to the show cause has been filed, however, the same has not been found satisfactory and accordingly the Sub-Divisional Officer directed the Block Supply Officer to lodge an FIR against the petitioner and accordingly Kadwa P.S. Case No. 250/2025 is registered,

WEB COPY

besides the license of the petitioner also directed to be cancelled vide order dated 25.09.2025 contained in Memo No. 694.

5. Learned Advocate for the petitioner while assailing the impugned order of cancellation has submitted that the very show cause notice suffers from a material irregularity inasmuch as the same is not in consonance with the provisions of Clause 27(ii) of the Order, 2016 which clearly mandates that no order of cancellation of a license shall be made until the licensee has been given sufficient opportunity to state his case against the proposal of cancellation of his license. Once the show cause notice does not contain the consequences or the proposed punishment, in the submission of learned Advocate for the petitioner, the same suffers from illegality. Referring to a decision rendered in the case of ***Gorkha Security Services v. State (NCT of Delhi) and Others, (2014) 9 SCC 105***, it is submitted that in order to fulfill the requirements of principles of natural justice, a show cause notice should meet the following two requirements which reads as follows:

> *"(i) The material/grounds to be stated which according to the department necessitates an action;*
>
> *(ii) Particular penalty/action which is proposed to be taken. It is this second requirement which the High Court has failed to*

WEB COPY

omit.”

6. It is further contended by learned Advocate for the petitioner that in identical facts a Coordinate Bench of this Court in the case of ***Shabnam Kumari v. The State of Bihar & Ors.:2026 (6) PLJR 116*** has set aside the order of cancellation on being found that the show cause notice was not in consonance with the Clause 27(ii). It is also argued by learned Advocate for the petitioner that so far the criminal case is concerned, the petitioner has already been extended bail by the Hon'ble Court in Criminal Miscellaneous No. 12304 of 2026 and thus the grounds of cancellation as provided under Clause 28 also does not attract in the case at hand.

7. Per contra, learned Advocate for the State while refuting the contention made a preliminary objection with regard to the maintainability of the writ petition in view of Clause 32 of the Order, 2016 which provides a statutory appeal against the order of cancellation passed by the Sub-Divisional Officer.

8. Upon carefully reading the show-cause notice, a copy of which has been marked as Annexure-P/2, learned Advocate appearing on behalf of the State further argued that all the grounds and relevant materials had been duly disclosed in

WEB COPY

the said notice. The notice further clarified therein that, in the event of the petitioner failing to furnish a satisfactory explanation with regard to the facts and circumstances stated therein, the Department would be at liberty to initiate appropriate proceedings against the petitioner; which finally culminated in the cancellation of the license. Dispelling the contention of the petitioner that the case of the petitioner is squarely covered with the judgment passed by a Coordinate Bench in the case of ***Shabnam Kumari (Supra)***, it is submitted that the facts of both the cases are quite distinguishable. So far as the present case is concerned, the order of cancellation has been passed on account of sheer violation of Clause 25 of the Order, 2016 whereas in the case of ***Shabnam Kumari (Supra)***, the license of the petitioner was put under suspension for more than 180 days and the cancellation order has been passed beyond the period stipulated and this was one of the reasons for setting aside the order of cancellation, besides other grounds.

9. After having carefully considered the submissions advanced by learned Advocate for the respective parties, this Court is of the considered opinion that once the show cause notice contained in Memo No. 610 dated 09.09.2025 suffers from material irregularity on account of the fact that it doesn't

WEB COPY

contain the proposed punishment and the consequences, the same requires interference. This Court is also conscious of the fact that the petitioner has the alternative statutory remedy, but once this Court comes to the conclusion that there is a violation of the principles of natural justice, the Court while exercising the extraordinary jurisdiction, many undoubtedly entertain the claim of the petitioner in view of the plethora of decisions passed by Apex Court from time to time. Regard may be had to ***Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai & Ors.; (1998) 8 SCC 1***. It would be also appropriate here to recapitulate the recent decision reported in the case of ***Karnataka Power Transmission Corporation Limited Vs. Rekha & Ors.: 2026 INSC 847*** where the Hon'ble Court reiterated the principle regarding maintainability of a writ petition as under;

> *"6. The question of maintainability of the writ petition is no longer res-integra. Numerous judgments of this Court have delineated on this question. We may refer to one such judgment where the principles regarding maintainability have been culled out. In Radha Krishan Industries v. State of H.P.5, it has been observed:*

WEB COPY

"27. The principles of law which emerge are that:

27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.

27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.

27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the

WEB COPY

Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with."

10. The claim of the petitioner also finds substance in view of the decision rendered in ***Gorkha Security Services***

WEB COPY

(Supra) wherein the Hon'ble Apex Court has ruled in paragraph 22 as follows :

> *"22. The High Court has simply stated that the purpose of show-cause notice is primarily to enable the noticee to meet the grounds on which the action is proposed against him. No doubt, the High Court is justified to this extent. However, it is equally important to mention as to what would be the consequence if the noticee does not satisfactorily meet the grounds on which an action is proposed. To put it otherwise, we are of the opinion that in order to fulfil the requirements of principles of natural justice, a show-cause notice should meet the following two requirements viz:*
>
> *(i) The material/grounds to be stated which according to the department necessitates an action;*
>
> *(ii) Particular penalty/action which is proposed to be taken. It is this second requirement which the High Court has failed to omit.*
>
> *We may hasten to add that even if it is not specifically mentioned in the show-cause notice but it can clearly and safely be discerned from the reading thereof, that would be sufficient to meet this requirement."*

11. It would also be pertinent to take note of a Full Bench decision of this Court in the case of ***Ghuran Paswan Vs.***

WEB COPY

State of Bihar & Ors. i***n CWJC No. 21202 of 2021*** and other analogous case, where the learned Full Court, while answering the reference ruled as follows:

> *"It is mandatory for a licensing authority issuing a notice under order 27(ii) to a license to mention that there is a proposal for cancellation of his license, failing which such notice cannot be treated to be a valid notice of giving sufficient opportunity to the licensee to state his case under order 27(ii) of the BTPDS Control Order."*

12. Once this Court has come to the conclusion that the very initiation of the proceeding is not based upon a proper show cause notice in terms with Clause 27 (ii) of the Control Order, 2016, this Court has no hesitation to set aside the same, as also the consequential impugned order of cancellation dated 25.09.2025 passed by the learned SDO, Barsoi, Katihar and relegate the matter to the learned SDO, Barsoi to issue a fresh show cause notice and take appropriate action in the matter after receipt of the explanation from the petitioner, in accordance with law.

13. The entire exercise must be completed preferably

WEB COPY

within a period of 12 weeks from the date of receipt/production of a copy of this order.

14. The writ petition stands disposed of.

(Harish Kumar, J)

Siddharth Kr.
Shaw/-

AFR/NAFR	NAFR
CAV DATE	NA
Date of Pronouncement	19.11.2026
Uploading Date	23.11.2026
Transmission Date	NA

WEB COPY