

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.403 of 2023

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Kuvar Jha S/o Late Ram Naresh Jha Resident of Village-Partapur, ward No.-
13, P.S.-Belsand, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Collector, Sitamarhi.
3. The Sub-Divisional Officer, Belsand, Sitamarhi.
4. The Block Supply Officer, Belsand, District-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s N.K.Agrawal, Sr. Advocate Dhananjaya Nath Tiwari, Advocate
For the Respondent/s	:	Mr.S. Raza Ahmad (Aag 5)

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 17-07-2026

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

“For the issuance of appropriate writ/writs, order/orders, directions to the respondents concerned for quashing of the order contained in memo no. 1518 dated 04.11.2022 passed by the Learned Sub-Divisional Officer, Belsand Sitamarhi by which he was pleased to cancel the PDS license of the petitioner being license no. 44/2007 and further be pleased to



restore the PDS license as well as supply of the petitioner.”

2. The brief facts culled out of the petition are that the petitioner has been functioning as a licensed Public Distribution System (PDS) dealer since the year 2007 and has been holding Licence No. 44/2007 without any complaint from any consumer during the last fifteen years. On 17.10.2022, the PDS shop of the petitioner was inspected by the Block Supply Officer, Belsand, who submitted an inspection report to the licensing authority. On the basis of the said report, a show cause notice dated 21.10.2022 was issued alleging, inter alia, non-display of the signboard and price list, non-maintenance of stock and sale registers, non-distribution of food grains to certain beneficiaries despite biometric authentication, and shortage of food grains as compared to the stock reflected in the e-POS machine. The petitioner was directed to submit his explanation within two days.

3. The petitioner submitted his reply on



26.10.2022 denying the allegations and explaining that the display board had been temporarily removed due to cleaning work before Diwali, that the inspection had been conducted before business hours, and that the apparent discrepancy in distribution was on account of the prevailing system under which beneficiaries could lift food grains from any fair price shop. It was also stated that food grains had been distributed to several beneficiaries and that no allotment had been made for the month of September, 2022.

4. Thereafter, another show cause notice dated 26.10.2022 was issued requiring the petitioner to explain the mismatch in the stock reflected in the e-POS machine within twenty-four hours. The petitioner submitted a further reply on 28.10.2022 stating that during the period when the e-POS server was not functioning, distribution had been made manually to the beneficiaries and, therefore, the e-POS machine continued to reflect undistributed stock. According to the petitioner, while he had approached the office of the licensing



authority, he was advised to admit the allegations on the assurance that the matter would be condoned. Subsequently, although he requested that such statement be returned, the same was not done.

5. It is the further case of the petitioner that without properly considering the explanations submitted by him, the Sub-Divisional Officer-cum-Licensing Authority, Belsand, Sitamarhi cancelled his licence by Memo No. 1518 dated 04.11.2022 primarily on the basis of the inspection report submitted by the Block Supply Officer. Aggrieved thereby, the petitioner has approached this Court.

6. The Learned Senior Counsel appearing for the petitioner submits that the impugned order is wholly arbitrary and violative of the principles of natural justice. It is contended that the petitioner was granted only two days' time under the first show cause notice and twenty-four hours under the subsequent notice to furnish his explanation, which cannot be said to be a reasonable opportunity as contemplated under



Rule 27(ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016.

7. It is further submitted that the issue is no longer *res integra* in view of the judgment of the Division Bench of this Court in **CWJC No. 10315 of 2020 (Muzaffar Alam @ Muzaffar vs. The State of Bihar & Ors.)**, decided on 17.11.2021, wherein it has been held that even three days' time cannot be treated as sufficient opportunity under Rule 27(ii) of the Control Order, 2016. Similar view has also been taken by this Court in **CWJC No. 5508 of 2020**, decided on 23.11.2021. It is submitted that the ratio laid down in the aforesaid decisions squarely applies to the facts of the present case.

8. It is also submitted that the copy of the inspection report, on the basis of which the proceedings were initiated, was not supplied to the petitioner along with the show cause notice, thereby causing serious prejudice and violating the principles of natural justice. In this regard, reliance has been placed on the judgment reported in **2013**



(2) PLJR 706.

9. The Learned Senior Counsel lastly submits that there is no complaint from any beneficiary against the petitioner, who has been functioning as a PDS dealer for about fifteen years without any adverse record. It is contended that the petitioner has neither violated the provisions of the Essential Commodities Act nor the conditions of his licence, and the impugned order, having been passed in an arbitrary manner and without following the prescribed procedure, is liable to be set aside.

10. The Learned counsel appearing for the respondents, referring to the counter affidavit, submits that the impugned order cancelling the petitioner's PDS licence was passed after due consideration of the inspection report submitted by the Block Supply Officer, Belsand, wherein several irregularities were found in the functioning of the petitioner's fair price shop.

11. It is submitted that during inspection, discrepancies were noticed regarding



non-display of price and stock details, non-production of relevant registers, non-distribution of food grains despite biometric authentication, and substantial mismatch between the stock reflected in the e-POS machine and the physical stock available at the shop. The petitioner was granted opportunity to submit his explanation and, upon consideration of his reply, the Licensing Authority found the explanation unsatisfactory, particularly with regard to the huge discrepancy in the stock position.

12. The Learned counsel further submits that the Licensing Authority, after being satisfied about the irregularities and in exercise of powers under the Bihar Targeted Public Distribution System (Control) Order, 2016, cancelled the licence of the petitioner vide order dated 04.11.2022.

13. It is contended that the petitioner has an efficacious statutory remedy of appeal before the District Magistrate under Clause 32(ii) and (iii) of the Bihar Targeted Public Distribution



System (Control) Order, 2016, against the order passed by the Licensing Authority. Without availing such statutory remedy, the petitioner has directly approached this Court. The Learned counsel, therefore, submits that the writ petition is not maintainable at this stage and the petitioner may be relegated to the statutory appellate remedy available under the relevant provisions of law

14. Heard the Learned Senior counsel for the petitioner as well as the Learned counsel for the State and perused the record.

15. The Learned Senior Counsel for the petitioner draws the attention of this Court to the judgment passed by a Division Bench of this Court in **CWJC No. 10315 of 2020 (Md. Muzaffar Alam @ Muzaffar Vs. The State of Bihar & Ors.)** (Annexure-6). The Learned Senior Counsel contends that this matter is squarely covered by the judgment passed by this Court in **Md. Muzaffar Alam @ Muzaffar (supra)**. Therefore, it is prayed that this writ petition may be disposed of on the same terms and conditions.



16. The Learned Counsel for the respondents, agreeing with the judgment passed by Division Bench of this Court in **Md. Muzaffar Alam @ Muzaffar (supra)**, submits that this matter may be disposed of on the same terms and conditions as outlined in the aforesaid judgment.

17. I have perused the order passed in **Md. Muzaffar Alam @ Muzaffar (supra)**. For better appreciation of the facts, relevant portion thereof is quoted hereinbelow:

“7 In our considered view, Mr Agrawal is correct in his submission that three days’ time, allowed to the petitioner to state his case against proposed cancellation of licence, cannot be said to be sufficient opportunity within the meaning of Sub-clause (ii) of Clause 27 of BTPDS Control Order.

8 The impugned order has apparently been passed without waiting for the petitioner’s reply to the show cause notice, after completion of three days of the issuance of notice. Further, the impugned order was passed



apparently in utter haste. In such circumstance, the preliminary objection, taken on behalf of the State of Bihar, is overruled. The impugned order dated 26.04.2020, passed by the Licensing Authority cancelling the petitioner's licence, is hereby set aside.

9 The Licensing Authority, however, shall be at liberty to pass an order afresh after considering the petitioner's representation, filed subsequent to passing of the impugned order. It shall be obligatory for the Licensing Authority to pass an order afresh within two months from today failing which the petitioner's licence shall be deemed to be restored. For the interregnum period, the licence shall remain under suspension.

10 This writ petition stands allowed with aforesaid observation and direction."

18. In view of the fact that this matter is squarely covered by the aforesaid judgment, the Writ petition is allowed in light of the judgment



passed in **Md. Muzaffar Alam @ Muzaffar (supra)**. *The impugned order dated 04.11.2022, passed by the Licensing Authority cancelling the petitioner's licence, is hereby set aside.*

19. *The Licensing Authority, however, shall be at liberty to pass an order afresh after considering the petitioner's representation, filed subsequent to passing of the impugned order. It shall be obligatory for the Licensing Authority to pass an order afresh within three months from today failing which the petitioner's licence shall be deemed to be restored. For the interregnum period, the licence shall remain under suspension.*

20 *This writ petition stands allowed with aforesaid observation and direction.*

21. 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	

