

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

BEFORE:

The Honble Justice Ravi Krishan Kapur

WPA/1113/2025

MD. ABDUL HAKIM
VS.

STATE OF WEST BENGAL AND ORS.

For the petitioner : Mr. Debabrata Saha Roy, Advocate
Mr. Pingal Bhattacharyya, Advocate
Mr. Shubhankar Das, Advocate
Mr. Neil Basu, Advocate
Mr. Sankha Biswas, Advocate
Ms. Oindrilla Sarkar, Advocate
Mr. Avidipta Paul, Advocate

For the State : Mr. Joyjit Choudhury, Advocate
Mr. Nabankur Pal, Advocate

Heard on : 13.05.2026

Judgment on : 22.05.2026

Ravi Krishan Kapur, J.:

1. The petitioner is holding a license for a Fair Price Shop and has been running the dealership for decades in Darjeeling.

2. The crux of the grievance of the petitioner pertains to a show cause notice dated 14 May, 2024 issued by the respondent authorities whereby the petitioner was found to be distributing goods in violation of the West Bengal Public Distribution System (Maintenance and Control Orders 2013) to fictitious individuals whose names had been deactivated from the Digital Ration Card Holders List
3. It is contended by the respondents that 7022 Digital Ration Cards (DRCs) had been deactivated by the Department on various grounds primarily due to non-linkage with their Aadhaar. Upon field enquiries, it transpired that such deactivated cards were in duplicate and the DRCs holders were getting ration entitlement based on such deactivated DRCs which they possessed. The original card holders feigned ignorance of there being duplicate cards in their names. In addition, most of the deactivated DRCs holders were found to be non-existent. There was also no attempt made by such DRC holders for reactivation of their deactivated cards. By its reply dated 21 May 2024, the petitioner duly responded to the show cause notice and denied all allegations. By a communication dated 29 May 2024, the petitioner was duly informed of all the allegations against him and was granted a right to appear personally.
4. Pursuant to the above, the petitioner appeared before the authorities on 6 June 2024 and denied all such charges. It was contended on behalf of the petitioner that the responsibility for activation, deactivation, suspension or cancellation of ration cards for food grains were in the exclusive domain of the Sub-Divisional Controller (F&S) and the petitioner had no role to play in respect thereof. The petitioner also denied any misappropriation.

5. By an order dated 8 July 2024, the Sub-Divisional Controller (F&S), Siliguri, found the petitioner to have violated clause 12 and 19 of Part III of the Control Order 2013 and imposed a penalty aggregating to Rs. 2,03,61,937/- on the petitioner. Being aggrieved by the order dated 8 July 2024, the petitioner filed a First Appeal before the District Controller, (F&S) Darjeeling. The appeal was heard on 2 August 2024 and by an order dated 8 July 2024, the order of the Sub-Divisional Controller, (F&S), Siliguri, Darjeeling was confirmed. Being aggrieved by the order dated 8 July 2024, the petitioner preferred a Second Appeal before the Director, Directorate of DDP&S which was heard on 12 February, 2025 and was dismissed by a speaking order on 11 March 2025.
6. It is contended on behalf of the petitioner that the entire proceedings initiated by the respondent authorities are in violation of the principles of natural justice. The orders passed by the Appellate Authorities are cryptic and unreasoned. There is no basis to the damages imposed on the petitioner. In any event, the same are excessive and unreasonable. No copy of the complaint or enquiry report was ever served on the petitioner. On the contrary, the petitioner has always complied with all its duties and obligations under the Control Order 2013. In such circumstances, all the impugned orders are liable to be set aside and the impugned proceedings quashed.
7. It is well settled that the scope of exercising jurisdiction under judicial review is limited and circumscribed. While exercising the jurisdiction of judicial review, the Writ Court does not enter into a fact-finding enquiry. The Writ Court is principally concerned with the decision-making process in ascertaining whether there has been any infirmity in such decision-making

process, namely error in exercise of jurisdiction, violation of principles of natural justice or perversity which shocks the conscience of the Court. It is only in such circumstances that a Writ Court would intervene. Judicial review cannot be converted into an appellate remedy.

8. In *State of U.P vs. Johri Mal*, 2004 4SCC 714, it had been held as follows.

"30. It is well settled that while exercising the power of judicial review the Court is more concerned with the decision-making process than the merit of the decision itself. In doing so, it is often argued by the defender of an impugned decision that the court is not competent to exercise its power when there are serious disputed questions of facts; when the decision of the Tribunal or the decision of the fact-finding body or the arbitrator is given finality by the statute which governs a given situation or which, by nature of the activity, the decision-maker's opinion on facts is final. But while examining and scrutinising the decision-making process it becomes inevitable to also appreciate the facts of a given case as otherwise the decision cannot be tested under the grounds of illegality, irrationality or procedural impropriety. How far the court of judicial review can re-appreciate the findings of facts depends on the ground of judicial review. For example, if a decision is challenged as irrational, it would be well-nigh impossible to record a finding whether a decision is rational or irrational without first evaluating the facts of the case and coming to a plausible conclusion and then testing the decision of the authority on the touchstone of the tests laid down by the court with special reference to a given case. This position is well settled in the Indian administrative law. Therefore, to a limited extent of scrutinising the decision-making process, it is always open to the court to review the evaluation of facts by the decision-maker."

9. In the above backdrop, the admitted facts of the case reveal that the petitioner had participated and had sufficient opportunity to deal with the allegations before the respondent authorities at all stages. This was a serious case where the petitioner was found to be abusing the public distribution system and providing goods on the basis of fake and duplicate DRCs. The DRCs number in the fair price shop of the petitioner were 17,314 in February 2022 and were

reduced to 8317 on 14 May 2024. 7022 DRCs were deactivated by the Department, primarily on the ground that there was no correlation with the Aadhaar cards. There were found to be fake or ghost DRC cards some of which had been issued in duplicate without knowledge of the individuals. The plea of ignorance of deactivation is also unsubstantiated for the reason that the same could easily be downloaded from the Public Portal of the Food & Supplies Department. Moreover, while issuing distribution through the e-POS device, the names and details of the card holders alongwith the status of the DRC were displayed on the screen. In such circumstances, even if an attempt is made to carry out an unauthenticated transaction the deactivated status would be visible to the dealer in real time. In addition, in many cases DRCs holders had submitted that there was no such member in their family. Regular monthly allocation was made by the Department on these deactivated DRCs for various months. All such distribution was in contravention of the 2013 Order and has caused huge loss to the State Exchequer.

10. The basis of calculation of damages had been provided for in the show cause notice. The petitioner was granted an adequate opportunity to controvert the same. Other than bald denials, the petitioner had no other defence. The Enquiry Report was also adverse to the petitioner. The petitioner also did not deny issuance of ration commodities to doubtful DRC holders. Both the orders of the First and the Second Appellate Authority have upheld the findings of the Sub-Divisional Controller (F&S) Siliguri-Darjeeling.

11. In view of the well-settled principles which are followed by the Writ Court, there are no grounds whatsoever to interfere with any of the impugned orders.

This is not only a case of food allotted for the public being misappropriated but also of the petitioner encouraging in such unlawful distribution on the basis of fake ration cards. There is no illegality nor perversity, nor contravention of any law, nor arbitrariness, nor violation of natural justice which justifies any interference by the Writ Court. There is no scope for re-appreciation of the facts. There is no infirmity in the decision making process. The facts and the evidence have both been considered and re-evaluated. All the impugned orders are reasoned. The underlying element of public interest in preventing misappropriation of food grains allotted for the general public and in defrauding the Exchequer also weighs with this Court in not interfering with the impugned orders.

12. In such circumstances, there is no scope for this Court to act as an Appellate Court. Insofar as the question of quantum of damages is concerned, there is nothing to demonstrate that there is anything extortionate or grossly disproportionate which warrants interference. It is well settled that in assessing the question of damages one has to proceed to an extent on guess work. Evidence of a precise sum on account of loss and damages is not possible. Significantly, the petitioner did not adduce any evidence to demonstrate any fallacy in the manner in which damages had been estimated and calculated and it is too late in the day to assail any of the impugned orders on this ground. (*Construction & Design Services v. DDA*, (2015) 14 SCC 263 and *Cobra Instalaciones Y Servicios, S.A. & Shyam Indus Power Solution (P) Ltd. vs. Haryana Vidyut Prasaran Nigam Ltd.*, 2024 SCC OnLine Del 2755).

13. In view of the above, there is no merit in the writ petition. WPA 1113 of 2025 stands dismissed. Interim orders, stand vacated.

(Ravi Krishan Kapur, J.)

Later:

After pronouncement of the judgment, the petitioner prays for stay of operation of the order.

The prayer for stay is considered and rejected.

(Ravi Krishan Kapur, J.)