

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15719 of 2018

=====

Chano Devi wife of Sri Mithilesh Singh, resident of Village- Birpur, P.S. Raghapur, District Vaishali An ex. P.D.S. dealer of Block Raghapur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Food Consumer and Protection Department, Govt. of Bihar, Old Secretariat, Patna -15
2. The Collector, Vaishali, at Hajipur.
3. The Sub Divisional Officer, Hajipur, District Vaishali
4. The Sub Divisional Grievance, Redressal Officer, Hajipur District Vaishali.
5. The Assistant District Supply Officer, Hajipur.
6. The Block Supply Officer, Raghapur District Vaishali.
7. The Block Supply Officer, Bidupur, District- Vaishali.
8. Babeeta Devi wife of Sri Kundan Kumar Singh, resident of Village- Panchayat Birpur, P.O. Birpur, Block- Raghapur, District Vaishali.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	M/s Aditya Narayan Akhilesh Kumar Sinha, Advocates
For the State	:	Mr. S.Raza Ahmed -AAG 5 Alok Ranjan, AC to AAG 5

=====

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 09-09-2025

1. The writ petition is filed for the following reliefs:

“(i) For quashing the order dated 29-08-2017 (Annexure-1) passed by the sub Divisional Officer, Hajipur by which the P.D.S. licence No. 08/2013 of the petitioner has illegally been cancelled without adhering to the principles of Natural Justice before passing the order



and without serving the copy of complaint petition, copy of show cause notice, copy of enquiry report of respondent Nos. 5,6 and copy of order of respondent No. 4 to reply and contradict against the allegations which are mandatory under law/rule.

(ii) For issuance of Mandamus commanding and directing the respondent Nos. 2 and 3 to restore the licence of the petitioner to its original position and allow him to run the shop as usual

(iii) For issuance of any other order/ orders, direction/directions for which the petitioner is entitled under the facts and circumstances of this case.”

2. The brief facts culled out of the Writ petition is that the petitioner was granted P.D.S. Licence No. 08/2013, to operate as a Fair Price Shop (FPS) dealer, in Birpur Panchayat and has been functioning without any prior complaints or violations.

3. It is submitted that by order dated 29.08.2017 (Annexure-1), the Sub-Divisional Officer



(SDO), Hajipur, cancelled the petitioner's licence on the following grounds of Non-reply to show cause notices dated 21.01.2016 and 01.02.2016; Findings in the inquiry report dated 26.04.2017, alleging non-distribution of grains and kerosene oil from November 2016 to January 2017, and disinterest shown in running the FPS.

4. It is further submitted that the petitioner was never served with the aforesaid show cause notices, inquiry report, or any complaint, and thus was deprived of an opportunity to respond. It is submitted that the proceeding suffered from violation of Clause 27(ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016 as well as Article 14 of the Constitution of India.

5. The petitioner further submits that the cancellation proceedings initiated on 19.12.2015 were concluded only after 20 months, contrary to Clause 27(iii) of the Order, which mandates disposal within two months.

6. In support of the case of the petitioner, reliance is placed on judgments in **Satwati**



Deswal v. State of Haryana [(2010) 1 SCC 126], Sri Niwas Choubey v. State of Bihar [2015(2) PLJR 376], and Smt. Fulpati Devi v. State of Bihar [2013(1) PLJR 718] to contend that violation of principles of natural justice justifies the exercise of writ jurisdiction.

7. The Learned counsel for the petitioner submits that no evidence of actual service of notice was produced by the respondents and mere annexing of documents in counter affidavit cannot cure procedural defects.

8. It is further submitted that since the cancellation order was passed in breach of natural justice, the petitioner was contained to approach this Hon'ble Court directly without exhausting the alternative remedy of appeal.

9. A detailed counter affidavit was filed on behalf of the respondent Nos. 2 to 5 and 7 stating therein that a joint inspection report was submitted on 19.12.2015 and based on that show cause notices were issued to the petitioner vide Memo No. 80 dated 21.01.2016 and Memo No. 113 dated



01.02.2016 by the Sub-Divisional Officer, Hajipur.

10. The Learned counsel for the respondents submitted that the petitioner failed to respond to the show cause notices. Consequently, relying on the findings of the Sub-Divisional Public Grievance Redressal Officer dated 26.04.2017, the competent authority cancelled the P.D.S. licence on 29.08.2017.

12. It is further submitted that the petitioner failed to avail the statutory remedy of appeal under Clause 32(iii) of the Bihar Targeted PDS (Control) Order, 2016, and the writ petition is non-maintainable.

13. A rejoinder to the counter affidavit was also filed by the petitioner reiterating her stand that no show cause notice, inquiry report, or complaint was ever served upon her. It is further submitted that the documents annexed with the counter affidavit were never communicated to her before cancellation.

14. It is further submitted that the statutory appeal remedy is not an absolute bar



where natural justice has been violated, and hence, the writ petition is maintainable.

15. Heard the Learned counsel for the petitioner as well as the Learned counsel for the State and perused the records.

16. From the record, including annexures to the counter affidavit, it appears that show cause notices were indeed issued to the petitioner vide Memo No. 113 dated 01.02.2016 and Memo No. 80 dated 21.01.2016, and clarification was sought, but the petitioner failed to respond. Further the petitioner's plea of non-service lacks sufficient substantiation, especially in light of the documentary evidence filed by the respondents.

17. The judgments cited by the petitioner are distinguishable on facts and do not apply to the case particularly where record indicate that notice and opportunity was afforded.

18. As per Clause 32(iii) of the Bihar Targeted Public Distribution System (Control) Order, 2016, an alternative statutory remedy of appeal lies before the District Magistrate.



19. In light of the availability of an alternative efficacious remedy under Clause 32(iii) of the Act and the existence of documentary proof indicating that notice and opportunity were given to the petitioner, this Court finds no ground to invoke its extraordinary writ jurisdiction under Article 226 of the Constitution of India at this stage.

20. Taking into consideration that the petitioner has an alternative remedy for filing an appeal, the writ petition is disposed of with a direction to the petitioner to file an appeal within four weeks from the date of receipt of this order before the concerned District Magistrate. The delay in filing the appeal shall be condoned by the District Magistrate, as the Writ petition was filed in the year 2018. Further, the authority shall dispose of the appeal within three months from the date of filing of the appeal.

21. With the above said observation, the Writ petition is disposed of.

22. Interlocutory Application(s), if any,



shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.09.2025
Transmission Date	

