

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.21268 of 2021**

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Mohan Prasad Son of Late Nathuni Sao Resident of Mohalla Purani Kaji Chouk (Nawadih Road), Road No.16, P.O. and P.S. and District- Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supplies Consumer Department, Bihar, Patna.
2. The District Magistrate, Aurangabad.
3. The Sub Divisional Officer, Aurangabad.
4. The District Supply Officer, Aurangabad.
5. The Block Supply Officer, Aurangabad Block, District Aurangabad.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Shailesh Kumar Singh, Advocate  
For the Respondent/s : Mr. Anisul Haque, AC to AAG-5

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**

**and**

**HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)**

**Date : 23-02-2022**

Heard Mr. Shailesh Kumar Singh, learned Advocate for the petitioner and Mr. Anisul Haque for the State.

The petitioner, a PDS licensee has challenged the orders dated 13.01.2020 passed by the licensing authority cancelling the licence as well as the order dated 25.02.2021 whereby the appeal against the order of cancellation has been dismissed and the order of cancellation has been affirmed.



It appears that an FIR was registered against the petitioner after it was found that subsidized foodgrains allotted against the petitioner's licence was being carried to an unknown destination on rickshaw and hand-cart. A notice appears to have been given to the petitioner for explaining the cause. The petitioner is said to have explained to the authority concerned that he had sought permission from the concerned authority for shifting the situs of the shop as the condition of the erstwhile shop was not appropriate for stocking the foodgrains.

Only after providing necessary information to the concerned authority, the foodgrains was being taken by the aforesaid mode of transport *viz.* rickshaw and hand-cart to a new shop after temporarily storing the foodgrains at his own house.

This aspect of the matter has not at all been looked into by the licensing authority or the appellate authority.

There is force in the contention of the learned counsel for the petitioner that the orders passed by the licencing authority as well as the appellate authority are highly presumptuous, without there being any basis for the same.

Merely because the foodgrains were being transported from one place to another and that also by



seeking prior permission and informing the concerned authority, the petitioner's licence cannot be cancelled.

There is nothing on record to indicate that it was being done for the purposes of selling the aforesaid foodgrains in black market.

The licensing authority has though noted this fact but has not provided any reason whatsoever for disbelieving the claim of the petitioner.

An order cannot be called a reasoned order, if it does not advert to the defence against the charge and does not provide reasons for rejecting such grounds.

The licensing authority has further held that the foodgrains were kept in a different bag and was then being transported. There is nothing on record to substantiate the aforesaid assumption of the licencing authority.

For the reasons aforestated, we do not find the orders impugned in the present petition to be sustainable in the eyes of law and therefore we set aside the aforesaid orders.

The matter is remitted to the licensing authority for giving a fresh opportunity to the petitioner for explaining his cause and after affording hearing to the petitioner, the licensing authority would be under an obligation to pass a final order.



Such process would commence forthwith after a copy of this order is produced before the licensing authority by the petitioner.

The order shall be passed within a period of 60 days from the date of receipt/production of a copy of this order.

The writ petition stands disposed off accordingly.

**(Ashutosh Kumar, J)**

**( Anjani Kumar Sharan, J)**

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.02.2022
Transmission Date	NA

