

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 302/2010

Shiva Industries Brahamanwasi, Nohar, District Hanumangarh through its Propreitor Shri Vijendra Kumar S/o Shri Lichchu Ram Ji Aged 28 years, resident of Brahamanwasi, Nohar, District Hanumangarh.

----Petitioner

Versus

1. State of Rajasthan through the Secretary, Food and Civil Supplies Department, State Secretariat, Jaipur.
2. Dy. Secretary & Dy. Commissioner, Food, Civil Supplies and Consumer Affairs, Government of Rajasthan, State Secretariat, Jaipur.
3. Collector & District Magistrate, Hanumangarh.
4. District Supplies Officer, Hanumangarh.
5. Enforcement Inspector in the Office of District Supplies Officer, Hanumangarh.

----Respondents

For Petitioner(s)	:	None present
For Respondent(s)	:	Mr. Ravindra Jala for Mr. S.S. Ladrecha, AAG

**HON'BLE MS. JUSTICE REKHA BORANA
HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT**

Order

27/02/2026

1. The present writ petition has been filed challenging the validity of notification dated 25.08.2009 (Annexure-6) whereby the State Government fixed the stock limit of Gram and Grams Dall for the wholesale as well as the retail dealers and the manufactures.
2. It has been averred that notification dated 25.08.2009 provides that the same would come into effect from 4th

September, 2009 whereas in terms of Order 18 of the Rajasthan Trade Articles (License & Control) Order, 1980 (hereinafter referred to as 'the Orders of 1980'), the same could not have been done without the notification having been notified in Official Gazette. It has been submitted on behalf of the petitioner that the power exercised by the State Government is in total contravention to the statutory provision of Order 18 of the Orders of 1980.

3. Further vide the said notification, only 15 days time has been granted to the dealer/retailer/manufactures to clear the present stock which itself is arbitrary. It has been submitted that reasonable time ought to have been granted so that appropriate action to clear the stock could have been taken by the concerned to comply with the notification.

4. It has been submitted on behalf of the State that the notification has been issued with prior concurrence of the Central Government and hence, the condition as laid down in Order 18 of the Orders of 1980 having been complied with, notification dated 25.08.2009 is in total consonance with law.

5. Heard the counsels. Perused the record.

6. Order 18 of the Orders of 1980 provides as under:

"18. Restriction on possession of trade articles- No person shall, either by himself or by any person on his behalf, store or for in his possession at any time in trade article mentioned in Schedule-I and Schedule-II in quantity exceeding the limits fixed-

(i) under an order issued by the Central Government; or

(ii) by the State Government with prior concurrence of the Central Government by issuing a Notification in official Gazette from time to time."

7. A bare perusal of sub clause (ii) of the above provision reflects that if the quantity of the Grams is to be fixed by the State Government, it is required to observe two specific conditions: **first**, the prior concurrence of the Central Government and **second**, to issue a notification in Official Gazette.

8. Notification dated 25.08.2009 reflects that prior concurrence of the Central Government was received prior to the issuance of the said notification. But then, neither the said notification reflects any date of Gazette Notification nor does it provide that the notification would come into effect from the date when it is officially notified.

9. On the specific query being put to learned Additional Advocate General as to whether notification dated 23.08.2009 was ever officially notified vide Gazette Notification, he admitted that the same was never done. Meaning thereby, the date of 4th September, 2009 reflected in the notification has been determined by the State Authorities without the notification having been officially notified. The same is clearly in contravention to Order 18 of the Orders of 1980.

10. It is the settled position of law that if law provides for some specific act to be done in a specific manner or a specific procedure, the State Authorities are under a bounden duty to follow the procedure. Just because it is a State Authority, it cannot be exempted from undertaking the statutory procedure as prescribed.

11. The Hon'ble Apex Court in ***State of Jharkhand and Others Vs. Ambay Cements and Another; (2005) 1 SCC 368***, specifically held that, whenever the statute prescribes that a

particular act is to be done in a particular manner and also lays down that failure to comply with the said requirement leads to severe consequences, such requirement would be mandatory. It is the cardinal rule of interpretation that where a statute provides that a particular thing should be done, it should be done in the manner prescribed and not in any other way.

12. In view of the above settled position of law, notification dated 25.08.2009 being in contravention to Order 18 of the Orders of 1980, cannot be affirmed and hence, the same being *ultra vires* the law is declared to be illegal.

13. Notification dated 25.08.2009 (Annexure-6) is therefore quashed and set aside.

14. Consequently, order dated 20.07.2010 (Annexure-12) passed by Collector, Hanumangarh is also quashed and set aside. The materials of the petitioner as confiscated and seized by the respondent authorities shall be released forthwith, of course, in accordance with law.

15. The writ petition stands **allowed**.

16. Stay petition and pending applications, if any, stand **disposed of**.

(YOGENDRA KUMAR PUROHIT),J

(REKHA BORANA),J