

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2546 of 2016

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Manoj Kumar Chandel, S/o Krishnanandan Singh, Resident of Village- Itasagar,
P.S.- Sikandra, District- Jamui Proprietor of M/s Krishna Communication, Station
Road, Satyagama, Jamui.

.... Petitioner

Versus

1. The State of Bihar through Director, Agriculture Patna.
2. The District Agriculture Officer, Jamui.
3. The Block Agriculture Officer, Jamui.

.... Respondents

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Appearance :

For the Petitioner	:	M/s N.K.Agarwal, Sr. Advocate and Dhananjaya Nath Tiwari, Advocate
For the State	:	Mr. Mrigendra Kumar, AC to GA 11

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 20-04-2016

Heard learned counsel for the petitioner and the State.

Through this writ application the petitioner seeks quashing of order dated 21.2.2015 issued by the District Agriculture Officer, Jamui, as contained in annexure 1, by which his licence granted for distribution of fertilizers as wholesale has been suspended and has further been directed to show cause as to why his licence should not be cancelled.

Sole issue raised on behalf of the petitioner is that though such order of interim suspension in a proceeding contemplated for cancellation of his licence was passed on 21.2.2015 but no final



order for cancellation has been passed till date and as per the proviso to Clause 31 of the Fertilizer (Control) Order, 1985 which deals in suspension, cancellation debarment, that would be deemed to have been revoked after expiry of 15 days from the date of pronouncement of the order of suspension without prejudice, however, to any further action which the registering authority, notified authority or the case may be, the controller may take action against such affected person under sub Clause (1) of Clause 31. For better appreciation relevant provision of Clause 31 is extracted as under:

“31. Suspension, Cancellation Or Debarment. – (1)

A Notified Authority, registering authority, or as the case may be, the controller may, after giving the authorized dealer or the holder of certificate of registration or certificate of manufacture or any other certificate granted under this Order, an opportunity of being heard, suspend such authorization letter or certificate or debar the dealer from carrying on the business of fertilizer on one or more of the following grounds, namely:-

(a) that the authorization letter or certificate of registration or certificate of manufacture, as the case may be, has been obtained by willful suppression of material facts or by misrepresentation of relevant particulars;

(b) that any of the provisions of this Order or any terms and condition of the Memorandum of Intimation or certificate of registration or the certificate of manufacture, as the case may be, has been contravened or not fulfilled:

Provided that while debarring from carrying on the business of fertiliser or canceling the certificate, the dealer or the certificate holder thereof may be allowed for a period of

thirty days to dispose of the balance stock of fertilizers, if any, held by him:

Provided further that the stock of fertilizer lying with the dealer after the expiry of the said period of thirty days shall be confiscated.

(2) Where the contravention alleged to have been committed by a person is such as would, on being proved, justify his debarment from carrying on the business of selling of fertilizer or, cancellation of authorization letter or certificate of registration or certificate of manufacture or any other certificate granted under this Order to such person the Notified Authority or registering authority or, as the case may be, the controller may, without any notice, suspend such certificate, authorization letter, as an interim measure:

Provided that the registering authority, Notified Authority or, as the case may be, the controller shall immediately furnish to the affected person details and the nature of contravention alleged to have been committed by such person and, after giving him an opportunity of being heard, pass final orders either revoking the order of suspension or debarment within fifteen days from the date of issue of the order of suspension:

Provided further that where no final order is passed within the period as specified above, the order of interim suspension shall be deemed to have been revoked without prejudice, however, to any further action which the registering authority, Notified Authority or, as the case may be, the controller may take against the affected person under sub-clause (1).

3. X	X	X	X	X
4. X	X	X	X	X”

It would be apparent from the aforesaid sub Clause (2) of Clause 31 that the tenure of order of suspension in a proceeding

of contemplation of cancellation of debarment of licence is 15 days and, on expiry of such period, there would be deemed revocation of suspension without prejudice to take any further action which the competent authority would may take under sub Clause (1) of Clause 31.

Learned counsel for the petitioner has placed reliance upon a decision rendered by a Division Bench of this Court in **M/s S.R.Fertilisers & Chem. (P) Ltd. Vs. State of Bihar [1990(2) PLJR 516]** in support of his aforesaid submission. Another decision has been appended as Annexure 5 to the writ application on the same issue.

A counter affidavit has been filed on behalf of respondent nos. 2 and 3. However, there is no answer to the aforesaid question raised by the petitioner.

Accordingly it is held that the tenure of Annexure 1 was merely for 15 days and, thereafter, suspension of the licence of the petitioner stood revoked. Since the licence was suspended in contemplation of proceeding for cancellation, the petitioner could not apply for renewal of his licence, as his licence was valid up to 31.3.2015, thus, he would be eligible to apply for renewal of his licence which should be considered by the authority in accordance with law. This is made clear that this order would not come in way to

the authority if they desire to proceed against the petitioner under sub Clause (1) of Clause 31.

This writ application stands allowed.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
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