

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8748 of 2015

Binod Kumar Prasad, Son of Late Radha Raman Prasad, Resident of P.O. & P.S. - Pupari, District - Sitamarhi, Proprietor M/S Swami Distributors, Baj Patti, Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary -cum- Commissioner, Department of Food & Civil Supplies, Government of Bihar, Patna.
2. The Hindustan Petroleum Corporation Limited through the Senior Regional Manager, Regional Office, 6th Floor, Lok Nayak Bhawan, Patna.
3. The District Magistrate Collector, Sitamarhi.
4. The District Supply Officer, Sitamarhi.
5. The Block Supply Officer-cum-Block Development Officer, Baj Patti, District - Sitamarhi.
6. Rajiv Kumar S/o Sri Nandan Kishore Prasad Yadav Resident of village - Kharka, P.O.-Punora, P.S.-Sitamarhi, District - Sitamarhi, Proprietor of M/s Mahadeo Traders, Sitamarhi.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajesh Mohan

For the Respondent/s : Mr. Anshuman Singh, G.P.-24

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 03-05-2016

Heard learned counsel appearing for the petitioner.

The petitioner is a wholesale dealer in the kerosene oil in the district of Sitamarhi and prays for appropriate directions to the authorities of the State as well as authorities of the Oil company to enhance his sanction quota of kerosene oil. The petitioner relies upon the recommendation of the Sub-Divisional Officer, Sitamarhi, a copy of which is present at Annexure-3/A.

Mr. Rajesh Mohan, learned counsel for the petitioner with



reference thereto has submitted that the Sub-Divisional Officer, District- Sitamarhi has recommended a supply of 2,61,018 litres of kerosene oil for the petitioner which according to Mr. Mohan comes to 22 tankers. The petitioner after representing the authority concerned and on getting no response has come before this Court praying for issuance of appropriate directions in the nature of mandamus commanding the respondents to effect supplies in terms of the recommendation present at Annexure-3/A. The matter was heard on 13.1.2016 and by way of interim arrangement the petitioner was directed to be given the recommended quota of kerosene oil as has been sanctioned by the Competent Authority, present at Annexure-3/A. Since the petitioner complained that the order passed, has not been complied, hence the respondent nos.3 to 5 were directed to present in person and respond to the contempt. It is following such directions that the District Magistrate, Sitamarhi proceeded to modify the allotment to the petitioner and since the effect of the said modification led to the alteration of the quota of the other dealer namely M/s Mahadev Traders that he came before this Court in I.A. No.2261 of 2016 asking an impleadment as a respondent and which I.A. was disposed of on 15.3.2016 and the said M/s Mahadev Traders has been directed to be added as respondent no.6 herein. By the same order the Court while

expressing anguish to the manner of compliance of its order, has proceeded to close the proceedings initiated for contempt against the respondent nos.3 to 5.

The matter is thereafter taken up today for consideration and when this Court has heard Mr. Rajesh Mohan, learned counsel for the petitioner, learned counsel for the Oil Company, Mr. Anshuman Singh, G.P.-24, for the State and Mr. N.K. Agrawal, learned counsel for the newly added respondent no.6 who happens to be the proprietor of M/s. Mahadev Traders. Although the pleadings in the present proceeding runs into a number of pages but the issue in contest is rather limited and that is, whether the petitioner at all is entitled to unilateral enhancement of quota and whether the enhancement in quota allotted to the petitioner has curtailed the quota of the other dealer. It is not the complaint of the petitioner that his dealership has been cancelled rather the plea of the petitioner is for enhancement of quota and for which he relies upon a recommendation made by the Sub-Divisional Officer, District- Sitamarhi.

This Court has deliberately used the term 'enhancement of quota' with consciousness since the quota of each Oil Company is fixed for each district as has been explained in the counter affidavit of the Oil Company. The counter affidavit of the Oil Company



further explains that once this quota is allotted for a district to any Oil Company then its allocation is made amongst the dealers so to be appointed by the Oil Company in tune with the recommendation of the District Magistrate. It is the stand of the Oil Company that the entire allocation for any district is to be made amongst the dealers appointed but within the quota allotted for an oil company in a particular district and thus until such time that there is any complaint against a particular dealer or the allocation amongst the dealers is arbitrary, it cannot be disturbed to benefit any dealer.

A supplementary affidavit has been filed by the State which further clarifies that the average number of families covered by each of the nine wholesale dealers in the district is 85102. It further mentions that the petitioner has been given allotment of kerosene oil for 86286 rural families. Annexure-A of the supplementary counter affidavit is an allocation order of the District Magistrate dated 25.1.2016 and the name of the petitioner and the private respondent appears at serial no.8 and 9 respectively and although minor disparity does reflect in the allocation but in my opinion that cannot be held arbitrary or a lopsided allocation calling for any intervention. That the District Magistrate has applied his mind in allocating the kerosene oil across the nine dealers available in the district, in my opinion the writ petition is a motivated attempt of

the petitioner to grab the quota of his fellow dealers and does not require any indulgence.

In the circumstances discussed this Court while modifying and vacating the interim order so passed in the present proceeding on 13.1.2016 and 19.1.2016, is not persuaded to order for any alteration in quota of the dealers in the district of Sitamarhi which area is left best to the discretion of the District Magistrate. Should any of the dealers feel aggrieved by the allocation of quota, they are free to represent before the District Magistrate with facts and figures and which shall be considered and disposed of with due notice and opportunity to the other competitive dealer(s) of the concerned oil company, in accordance with law.

The writ petition is disposed of.

(Jyoti Saran, J)

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