

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.752 of 2016

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Shila Kumari Devi, Wife of Sri Ram Prakash Yadav, Resident of Village- akraha,
Post and P.S.- Hayaghat, District- Darbhanga.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna
2. The District Magistrate, Darbhanga, District- Darbhanga.
3. The Sub-Divisional Officer, Sadar Darbhanga, District- Darbhanga.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Kumar Labh, Advocate
For the State : Mr. Anisul Haque, A.C. to A.A.G. 9

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 30-03-2016

Heard parties.

Through this writ application, the petitioner seeks quashing of the order dated 18.07.2003 passed by the Sub-Divisional Officer, Sadar Darbhanga, as contained in Annexure 1, by which the agreement of the petitioner for running the PDS shop under licence no.11/94 was terminated till further order as well as also for quashing of the order passed by the authority, if any, by which licence of the petitioner has been cancelled though cancellation order was never served upon the petitioner.

It appears that the writ petition has been filed under gross misconception that some sort of licence for running PDS shop



was being granted under Bihar Trade Articles (Licenses Unification) Order, 1984 (hereinafter referred to the “Unification Order”). In fact, under the said Control order, the licences were being granted to the dealers or the retailers under Clause 3 for trade articles. There is no provision for grant of licence for running PDS shop under the aforesaid Control Order. However, the State authorities used to enter into an agreement with the licensee under the aforesaid Control Order for running a PDS shop on the terms and conditions laid down under the agreement itself. The petitioner’s contention that he was granted licence for running a PDS shop which was being renewed time to time is not acceptable at all. However, subsequently, Public Distribution System (Control) Order, 2001 came into existence which was made effective in the State of Bihar in the year 2007 under which the Licensing Authorities were required to terminate the agreement and provide new licence in Form II to the existing licensee after deposit of licence within six months and thereafter the provisions of the Unification Order did not remain applicable to the Fair Price Shop under the public distribution system. Petitioner’s agreement was admittedly cancelled/revoked till further order in the year 2003 itself vide Annexure 1. Thereafter, it does not appear from the writ petition that the petitioner was ever aggrieved with such order and had moved before any authority against such order. Therefore, when the new

Public Distribution System (Control) Order, 2001 came into existence, at that point of time there was no agreement between the petitioner and the State for running a PDS shop which was required to be cancelled and, thus, in my view, no licence could have been issued in his favour. However, he could have applied for grant of a fresh licence for running s PDS shop which was also not done.

That apart, in my view, the petitioner has not only approached this Court after 13 years of passing of Annexure 1 but also after about 9 years of coming to the of Public Distribution System (Control) Order, 2001 and there is no explanation for that at all. As a result, this writ application is fit to be dismissed on the ground of laches itself.

Accordingly, this writ petition is dismissed.

(Dr. Ravi Ranjan, J)

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