

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9862 of 2015

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Bajrang Singh, son of Rampukar Singh, Resident of Village Adauri, P.S.
Purnahiya, District- Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through District Magistrate, Sheohar.
2. The Sub Divisional Officer, District Sheohar.

.... Respondent

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Appearance :

For the Petitioner : Mr. Alok Kumar Jha, Advocate

For the State : Mr. Harish Kumar- Gp32

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 29-03-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the show cause notice dated 13.01.2012 (Annexure 4) by which his licence for running PDS shop was suspended vide order dated 27.08.2011 by the sub-Divisional Officer, Sheohar on the ground that F.I.R. has been lodged against him under Section 7 of the Essential Commodities Act, 1955. Vide the same document, it appears that explanation was sought from the petitioner as to why his licence should not be cancelled. The order having been passed in the year 2012 but nothing has been done



thereafter. On such question having been asked, learned counsel for the State has produced a decision dated 10.03.2016 passed in C.W.J.C. No.15210 of 2011 which has been filed by the petitioner and others being aggrieved by the notice issued to them to deposit the price of the respective quantities of rice at the rate of Rs.1370 per quintal. However, both the parties agree that in view of the decision dated 21.09.2015 passed in **C.W.J.C. No.5638 of 2011 (Raiful Azam & Ors. Vs. State of Bihar & Others)** and analogous matters, whereby, a Three-Member Enquiry Commission had been constituted for detailed enquiry into the matter with regard to the charges of retention of rice by PDS dealers, the same may be disposed on the same line.

However, in such a situation, when the inquiry is still going on, in my view, no further action of cancellation of licence on the ground of lodging F.I.R. is available under the Public Distribution System (Control) Order, 2001. Similarly, on the date when the order of suspension has been passed i.e., on 27.08.2011, the provision for suspension of licence under Clause 7(iii) of Public Distribution System (Control) Order, 2001 already stood deleted by the amendment brought in the Control order which was made effective on 23.06.2011. Thus, the order of suspension is also without jurisdiction.

Accordingly, till some material against the petitioner in view of the Three-Member Enquiry Commission is found or the petitioner is convicted or after the inquiry some other charges are levelled against the petitioner, he would be entitled for resumption of supplies.

This disposes of the writ petition.

(Dr. Ravi Ranjan, J)

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