

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14718 of 2014

Ramfirth Paswan S/o Late Haruni Paswan Resident of Mohalla - Block - 8,
Sector - 3, Qtr. No. 19 (MIG) Bahadurpur Housing Colony, Bhootnath Road,
P.O. Bahadurpur Housing Colony, P.S. - Agamkuan, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through the Joint Secretary, Food AND Consumer Protection Department, Patna.
2. The Collector, Patna.
3. The Special Officer, Rationing, Patna.
4. The Assistant Rationing Officer, Patna.

.... Respondent

Appearance :

For the Petitioner : M/s N.K.Agrawal, Sr. Advocate and
Dhananjaya Nath Tiwari, Advocate

For the State : Mr. Prabhat Ranjan, AC to GP 12.

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 12-01-2016

Heard learned counsel for the petitioner and the State.

Petitioner's Licence No. 36/2008 was cancelled vide

Annexure 1 by the Special Officer, Rationing, Patna on 3.7.2012. The

Appeal filed by the petitioner has also been dismissed vide Annexure

2 dated 24.7.2013 by the District Magistrate, Patna. Both the orders

are sought to be quashed.

The petitioner raises only one question at the time of hearing that the Special Officer, Rationing was not posted by the State Government and rather deputed by the District Magistrate and as such he was not a competent authority to decide the issue.

Issue is no longer *res integra* as this Court vide order dated 14.2.2014 passed in C.W.J.C. No. 13973 of 2012 (Sita Ram Vs. The State of Bihar & ors.) has already held regarding the identical order passed by same officer though in a different case on same date, admitted position being that the Special Officer Incharge Rationing, Patna was not posted or transferred on such post by the competent authority of the State Government and was deputed by the District Magistrate, he cannot be deemed to be the licensing authority under the Public Distribution System Control Order, 2001 and as such the order was held to be without jurisdiction and quashed.

Similar issue has been raised in this case also and the officer, the post and the date of order and place of posting all are same.

In above view of the matter, this writ application also stands allowed in terms of the aforesaid order. The impugned orders are quashed and set aside. However, it is made clear that this order

will not come in the way of the competent authority for initiation of a
fresh proceeding against the petitioner if it so desires.

(Dr. Ravi Ranjan, J)

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