

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6423 of 2016

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Raj Kishore Sah, Son of Late Fuleshwar Sah, Resident of village - Sultanpur
(Kumaitha), Police Station Bath, District - Bhagalpur

.... Petitioner

Versus

1. The State of Bihar
2. The D.M. Bhagalpur
3. The S.D.O. Sadar, Bhagalpur
4. The District Supply Officer, Bhagalpur
5. The Block Supply officer, Sultanganj Block and P.S. Sultanganj, District
Bhagalpur

.... Respondents

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Appearance :

For the Petitioner : Mr. Siya Ram Sahi, Advocate
For the State : Mr. Madhukar Mishra, A.C. to S.C. 16

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 01-09-2016

Heard parties.

Petitioner assails Annexure 1 which is an order dated
29.10.2015 by which his supplies to the PDS shop has been stopped
and his PDS shop has been attached with anther PDS dealer.

Sole ground taken on behalf of the petitioner is that
unless there is order of suspension or cancellation of licence, such
order could not have been passed by the Licensing Authority. Clause
7(vi) of the Public Distribution System (Control) Order, 2001 lays

down in clear terms that the allocation to PDS dealers shall not be discontinued under any circumstance save and except cancellation of licence. In case of cancellation of licence, allocation to a PDS dealer should be tagged to the nearest PDS dealer.

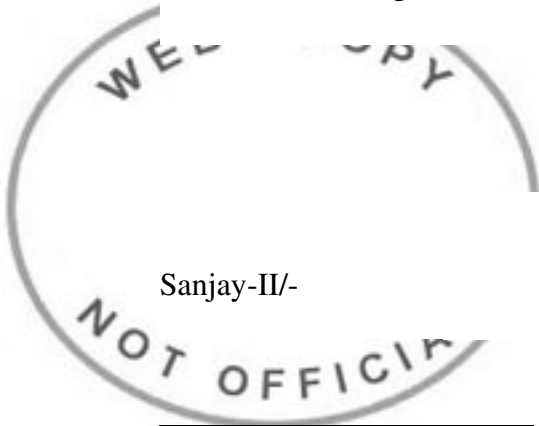
In the present case, admittedly there is no order for suspension or cancellation of licence and merely on the basis of institution of first information report, his shop has been attached with another PDS dealer. In my view, the order impugned being in contravention of the provision of Clause 7 of the Public Distribution System (Control) Order, 2001 has to be held to be arbitrary in nature and is not sustainable in law.

Accordingly, this writ application succeeds. The impugned order as contained in Annexure 1 is quashed and set aside. The supplies to the petitioner's PDS shop should be restored immediately.

Since no counter affidavit has been filed on behalf of the State, it is made clear that this order would not be effective in case any order of suspension or cancellation of licence was already passed by the Licensing Authority.

However, if the Licensing Authority, if it so desires, comes to the conclusion that the petitioner has committed any irregularity then he would be at liberty to initiate a proper proceeding

in accordance with law but in such case, the petitioner has to be granted reasonable opportunity.



Sanjay-II/-

(Dr. Ravi Ranjan, J)

AFR/NAFR	NAFR
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