

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.31232 of 2014

Arising Out of PS.Case No. -200 Year- 2010 Thana -WAJIRGANJ District- GAYA

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Binda Manjhi, son of late Saman Manjhi, Resident of Village- Chainpur, P.S.-
Tankuppa, District- Gaya

.... Petitioner/s

Versus

1. The State of Bihar
2. The Block Supply Officer, Tankuppa, District- Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar, Advocate.

For the Opposite Party/s: Mr. Ajay Kumar No. 1, APP.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 06-11-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner seeks quashing of the cognizance order
dated 20.01.2014 passed by the Chief Judicial Magistrate, Gaya in
connection with Wazirganj (Tankuppa) P.S.Case No. 200 of 2010
thereby taking cognizance of offence under Section 7 of the Essential
Commodities Act.

3. A brief fact giving rise to the case is that on the order
of the Sub Divisional Officer, Sadar Gaya, the Block Supply Officer
raided the house of one Sudhir Sah and recovered 4400 litres of
kerosene oil kept in 22 barrels for black marketing. During the seizure
procedure, one Binda Manjhi, petitioner, appeared and claimed to be
the owner of the kerosene oil, who is a P.D.S. dealer, so it is alleged



that kerosene oil supplied to the petitioner for distribution under the Public Distribution System was kept for black marketing purpose.

4. Learned counsel for the petitioner submits that petitioner had filed a petition to the Sub Divisional Officer, Sadar Gaya for distribution of the kerosene oil from the house of Sudhir Sao accordingly, the Block Development Officer, Tankuppa passed order for distribution of kerosene oil from the house of Sudhir Sao. Learned counsel further submits that in fact application was for giving permission for storage of the kerosene oil at the house of Sudhir Sao as per Clause 12 of the Govt. of Bihar, Food, Supply & Commerce Department, Public Distribution System (Control) Order, 2001 Notification, G.S.R. No. 1 dated 20.02.2007.

5. Contrary to that, learned counsel appearing on behalf of the State submits that no such application was filed by the petitioner for storage of kerosene oil at the house of the Sudhir Sao, only permission was sought for distribution of kerosene oil from that place.

6. Having considered contrary submissions advanced by both sides, let us first analyse the provision of Clause 12 of the Notification, G.S.R. No. 1 dated 20.02.2007, which reads as follows:

“12. Changes in Licence-(i) If the licensee wants to change the storage or business premises to any other site other than the one mentioned in the licence then therein afresh



petition shall be submitted to the Licensing Authority.

(ii) The Licensing Authority shall give permission after necessary enquiry to change the business premises in the licence within 15 days of receipt of petition and necessary entries should be made in the licence and also in the licence register maintained in the office. If the Licensing Authority does not give permission of change of location within a period of 15 days the licensee will be entitled to store essential commodities at the new location.”

7. This provision envisages giving opportunity to a licensee of the Public Distribution System to get changed business premises to any other site or the place of storage other than mentioned in the licence for which a fresh petition is required to be submitted before the licensing authority. Thereafter licensing authority, after doing necessary enquiry relating to change of the business premises or place of storage, the licensing authority, within 15 days of the receipt of the petition, may give such permission. In case, licensing authority does not give permission to change of location within a fortnight, then licensee will be entitled to store essential commodities at the new location. However, it is apparent that no application was filed by the petitioner for either change of location of his shop or for storage of the kerosene oil and other essential goods. Only request was made to give permission for making distribution from the house of one Sudhir Sao as one P.D.S. shop of that locality was attached with his shop. As there was no any application either to change of location of the shop



or place for storage of the kerosene oil, so neither any order was made in the licence modifying the earlier order of storage of the kerosene oil to some other place. As there was no any application for shifting the storage premises at some other place was pending so deemed provision is not applicable in the present case.

8. Hence, finding no any ground for interference in the cognizance order, the application stands dismissed.

9. The trial court is directed to expedite the trial and conclude the same within a year.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
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