

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8818 of 2017

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Nagendra Kumar Singh, son of late Ram Pravesh Singh, resident of village - Chandu Bigha, P.S. - Dhanarua, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Patna.
3. The Sub-Divisional Officer-cum-Licensing Authority, Masaurhi, Patna.
4. The District Supply Officer, Patna.
5. The Block Supply Officer, Dhanarua, District - Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhola Kumar

For the State : Mr. Lalan Kumar AC to GP9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-09-2017

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

The petitioner has raised a grievance that the Block Supply Officer, Dhanarua vide impugned letter no.133 dated 15.1.2015 has disallowed him to run PDS shop and attached the shop with shop of Sanjay Singh.

As per petitioner, he was running the PDS shop in individual capacity vide Licence No. 206 of 2007 showing that he was Chairman of PACS. As he was defeated in the election of PACS, the Block Supply Officer has snatched the shop of the petitioner and handed over the same to one Sanjay Singh.



Petitioner has made a claim that under the Essential Commodities Act and Control Order Block Supply Officer has no any such power to take action thereby depriving or taking away the right to run the PDS shop and attach the same with other person. Only the Sub Divisional Officer or Collector can take such action with respect to licence.

Counter affidavit has been filed where the claim of the petitioner has been disputed that the licence was not given in individual capacity rather the licence was given to him as Chairman of PACS, as he was Chairman of PACS, licence was extended only up-to 2007, when he was defeated in election, the shop by way of temporary arrangement was attached with other person.

Disputed question of fact cannot be looked into in this proceeding as to whether the petitioner was running the shop in individual capacity or as a Chairman of PACS. One thing is very clear that Block Supply Officer has taken the action of attaching shop with another person which he does not have, as he is not competent to snatch away the allotment and put the licence in abeyance. It is only the Sub Divisional Officer and Collector who has such power.

The action of the Block Supply Officer, Dhanarua is



completely against to the law. Accordingly the order dated 15.1.2015 is set side.

Learned counsel for the petitioner submits that as licence was not given to the PACS rather the same was given to him in his individual capacity. This Court is not either accepting or rejecting the claim of the petitioner.

The Sub Divisional Officer, Masaurhi is directed to examine the matter, hold an enquiry, arrived to a finding whether the licence was given to the petitioner in individual capacity or Chairman of PACS and final order will be passed as to who will run the shop.

For convenience, petitioner is directed to file an application before the Sub Divisional Officer, Masaurhi who will be obliged to pass a reasoned order in accordance with law after hearing both parties.

With the aforesaid observation and direction this writ petition is disposed of.

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.9.2017
Transmission Date	NA

(Shivaji Pandey, J)

