

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17955 of 2015

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Ram Sagar Paswan S/o late Thakko Paswan, Resident of Village- Brahampur
,P.S -Kusheshwar Asthan, District Darbhanga.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer protection
Department, Bihar,Patna.
2. The Collector Darbhanga.
3. The Sub-Divisional officer, Biraul, Darbhanga.
4. The Block Supply Officer, Kusheshwar Asthan Darbhanga.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Dhananjay Nath Tiwari, Adv

For the Respondent/s : Mr. Ravindra Kumar, SC

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-02-2018

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

2. The present writ petition has been filed for quashing
of the order contained in Memo No. 466 dated 09.03.2013 passed by
the learned Sub-Divisional Officer, Biraul, Darbhanga whereby the
license of the petitioner to run the public distribution shop being
license no. 84/2001 has been cancelled and further for quashing the
order dated 27.06.2015 passed in PDS Case No. 164/2013 by the
learned Collector, Darbhanga by which he affirmed the order of learned
S.D.O., Biraul, Darbhanga.

3. It is submitted that the impugned order of
cancellation of the petitioner's PDS license has been passed on the



allegation that he had not deposited the demand draft for lifting the food grains for the months of January to April, 2012 and June 2012 to August 2012 under BPL Scheme and also for the months of February, March, April and July, 2012 under the Antyodaya Scheme. It is submitted that the petitioner duly filed his show cause stating that the required demand draft could not be deposited in view of the fact that his wife and he himself have taken ill leading to financial constraint. It is further submitted that the PDS license ought not to have been cancelled in view of the instruction as contained in the letter dated 12.09.2012 issued by the Principal Secretary, Food and Consumer Protection Department, Government of Bihar addressed to all the District Magistrates to the effect that the license should not be cancelled on account of failure to lift the food grains and distribute the same to the beneficiaries. Reliance is placed on a decision of this Court reported in the case of *Mithileshwar Prasad Singh vs. The State of Bihar & Ors.*, 2018(1) PLJR 1.

4. Learned counsel for the respondents appears and relies on the counter affidavit to oppose the writ petition stating that considerable inconvenience has been caused to the beneficiaries as a result of the default on the part of the petitioner in lifting the food grains and distributing the same for the months in question.

5. Having heard the rival submissions of the parties, this Court finds merit in the writ petition. This Court in *Mithileshwar*



Prasad Singh (*supra*) has already taken the view that considering the instruction dated 12.09.2012 referred to above, PDS license cannot be cancelled only on the allegation that the petitioner failed to deposit the demand draft for lifting the food grains and distribute the same to the beneficiaries. The impugned order dated 09.03.2013 (Annexure-4) as also the appellate order dated 27.06.2015 (Annexure-6) are accordingly hereby quashed and the license of the petitioner is directed to be restored without undue delay.

6. It is made clear that in case the default is committed by the petitioner in future, the authorities shall be at liberty to take appropriate action in the matter.

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
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