

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18890 of 2016

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Suresh Rai, S/o Late Police Rai, R/o Village-Irora Bisanpur, P.O.- Khanpur
Pakari, P.S.- Desari, District - Vaishali

.... Petitioner

Versus

1. The State of Bihar
2. The Magistrate, Vaishali
3. The Deputy Development Commissioner, Vaishali
4. The Principal Secretary, Food & Consumer Conservative Department, Govt. of Bihar, Patna
5. The Sub-Divisional Officer, Mahanar, Vaishali
6. The Block Development Officer, Desari, Vaishali

.... Respondents

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Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Advocate
Mr. D.N. Tewari,
Mr. Shashi Bhushan Kumar, Advocates
For the Respondents : Mr. Upendra Pratap Singh, AC to SC 4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-03-2018

Heard learned senior counsel for the petitioner as well as
learned counsel for the respondents.

2. The present writ petition has been filed for quashing the order 10.11.2016 passed by Justice Uday Sinha, Judicial Enquiry Commission, inter alia, directing the petitioner to deposit 50% of the total amount of Rs. 5,73,619/- which comes to Rs. 2,87,000/- within a month in the light of the order dated 21.09.2011 passed in CWJC No. 5638 of 2011, before the grievance of the petitioner could be taken up by the Commission.

3. Mr. N.K. Agrawal, learned senior counsel appearing on behalf of the petitioner, submits that the impugned order passed by the Commission can no longer be sustained in view of the recent order dated 02.08.2017 disposing of I.A. No. 5268 of 2017 in CWJC No. 5638



of 2011 and on consideration of the subsequent developments it was directed that the order dated 21.09.2015 passed in CWJC No. 19529 of 2011 and analogous cases stood modified to the following extent –

“(1) The Commission in question shall now consist of only one Member to be headed by Hon’ble Justice (Retd.) Uday Sinha as its sole member.

(2) The Commission shall make endeavour and submit its report within six months from the date as may be modified by the State Government in the Gazette.

(3) The Commission shall cause an enquiry only with regard to the grievances of such of the persons who has filed the Writ Petitions before this Court pertaining to which orders were passed on 21.09.2015 in C.W.J.C. No. 19529 of 2011 and analogous cases. Scope of the enquiry shall be confined to the adjudication of the dispute raised by the writ petitioners who filed these writ petitions before this Court.

(4) The persons or PDS dealers who are not parties in the writ petitions or who had not ventilated their grievances in the writ petitions or before this Court shall not be permitted to take up the issue before the Commission.

(5) The Commission shall further ensure that the condition stipulated in the original order passed on 21.09.2015 with regard to the deposit of the 50 per cent of the certificate amount for the purpose of preventing coercive action, shall continue to remain in operation.”

4. It is submitted that the present petitioner was not a party in the concerned writ petitions rather his case has been referred by the authority to the Commission and hence, in view of the



modification order dated 02.08.2017 referred to above, the petitioner is no longer permitted to take up the matter before the Commission. As such, the Commission would therefore not be able to proceed in the matter of the petitioner. The impugned dated 10.11.2016 has therefore become inoperative.

5. Learned counsel for the respondent appears but is unable to controvert the stand of the petitioner.

6. In the above circumstances, the impugned order dated 10.11.2016 (Annexure-1) is hereby quashed and the writ petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.03.2018
Transmission Date	N.A.

