

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5686 of 2015

=====

Suresh Paswan Son of Late Hari Paswan, Resident of village- Padapa, P.S.-
Nardiganj, District- Nawada

.... Petitioner

Versus

1. The State of Bihar.
2. The Collector, Nawada, District- Nawada.
3. The District Supply Officer, Nawada, District- Nawada.
4. The Sub-Divisional Officer, Nawada Sadar, District- Nawada.
5. The Block Development Officer-cum-Marketing Officer, Nardiganj, District-
Nawada.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Kundan Kumar, Advocate

For the Respondents : Mr. S.K. Sharma - GA1

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-08-2018

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

2. The present writ petition has been filed for setting
aside the order dated 16.09.2014 passed by the Sub-Divisional Officer,
Nawada Sadar in Record No. 09/2012 and further issue a direction to
the respondent authorities to restore the PDS License of the petitioner
bearing License No. 3/94, Shop at Padappa within Hariyan Gram
Panchayat; and for connected reliefs.

3. Learned counsel for the petitioner invites reference to
the order dated 18.11.2011 passed in his earlier writ petition in CWJC
No. 10288 of 2008 (Annexure-5) which was disposed of in the



following terms –

“In the result I find that the order contained in Annexure 3 is not reasonable and based on cogent material. I quash the orders contained in Annexures 3 and 4 and remit the matter to the Subdivisional Officer, Nawada h Sadar to examine all the relevant documents and statement of complaint and thereafter pass a fresh order within three months from the date of receipt of a copy of this order.”

4. It is therefore submitted that the order of cancellation of the petitioner’s PDS licence having been quashed, the respondents were bound to comply with the direction of this Court. Instead of giving effect to the order of this Court as aforesaid by examining all the relevant documents and statement of complaint, the respondent-Sub-Divisional Officer entered into a new ground with respect to the existence of *Harijan Patta Katti Udyog Sahyog Samiti* of which the petitioner is the Secretary. A specific stand has been taken in paragraph 25 of the writ petition that the aforesaid Samiti is alive and its election is being conducted from time to time and the petitioner is the elected Secretary of the said Samiti.

5. Learned counsel for the respondents appears. Despite a copy of the writ petition having been served upon the State in April 2015 itself, no counter affidavit has been filed till date.



6. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the writ petition. The order of cancellation of the petitioner’s PDS licence was quashed by this Court in CWJC No. 10288 of 2008 and the matter was remanded for passing fresh order with a limited direction to the Sub-Divisional Officer to examine the documents and statement of complaint. The issue with regard to the existence of the said Samiti was never raised by the respondents in the earlier round of litigation before this Court. As such, the Sub-Divisional Officer clearly travelled beyond the scope of jurisdiction defined by this Court while remanding the matter. The impugned order has thus been passed in excess of jurisdiction and parameters which were specific in term of the directions of this Court.

7. In the above view of the matter, the impugned order dated 16.09.2014 passed in Record No. 09/2012 is quashed and the Sub-Divisional Officer, Nawada Sadar (respondent no. 4) is directed to restore the licence of the petitioner without delay.

8. The writ petition stands allowed.

B.T/Chandran

(Vikash Jain, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.08.2018
Transmission Date	N.A.

