

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10404 of 2014

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1. Ashok Singh @ Ashok Kumar Singh Son of Shashi Bhushan Singh, resident of Village- Narayanpur, P.S.- Tarapur, District- Munger

2. Suresh Prasad Sah Son of late Etwari Sah, resident of Village- Vikrampur P.S. Asarganj, District- Munger

3. Lakshman Yadav Son of late Jagdish Yadav, resident of Village- Vikrampur P.S. Asarganj District- Munger

.... Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Rural Development Department, Govt. of Bihar, Patna

2. The Principal Secretary, Rural Development Department, Govt. of Bihar, Patna

3. The Principal Secretary, Food & Consumer Protection Department, Govt. of Bihar, Patna

4. The Deputy Development Commission, Munger cum Chief Executive Officer, Zila Parishad, Munger

5. The District Magistrate, Munger

6. The Sub Divisional Officer, Sub-Division- Tarapur, District-Munger

7. The Block Development Officer, Block- Asarganj, District- Munger

.... Respondents

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Appearance :

For the Petitioner : Ms. Sushmita Mishra, Advocate.

For the Respondents : Mr. Yogendra Pd. Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 24-07-2018

The present writ petition has been filed for quashing the order dated 16.08.2011 passed by respondent no. 6, Sub-Divisional Officer, Sub-Division Tarapur, District Munger, whereby and whereunder the quota of the petitioner no. 1 of PDS shop has been



tagged with one Niwas Sudhanshu, another PDS dealer of Asaraganj Panchayat and the quota of the petitioner nos. 2 and 3 of PDS shop has been tagged with one Sanjit Kumar of Makwa Panchayat.

2. Learned counsel for the petitioners raises a short submission to assail the impugned order to the effect that in view of the Public Distribution System (Control) Order 2001 as amended in 2011 with effect from 23.06.2011, the only provision for tagging the allocation of fair price shop dealer is found to be under Clause 7(vi) which reads as under –

“7(vi) Allocation to FPS dealers shall not be discontinued under any circumstance. In case of cancellation of licence allocation to a FPS dealer should be tagged to the nearest FPS dealer.”

3. A specific assertion has been made in paragraph-5 of the supplementary affidavit, stating that the license of the petitioners bearing Licence Nos. 104/08, 94/08 and 101/08 respectively had neither been suspended nor been cancelled prior to passing of the impugned order nor even thereafter.

4. Learned counsel for the respondents appears and has been heard. No counter affidavit has been filed even though a copy of the writ petition was served upon the respondents more than four years ago.

5. Having regard to the stand of the petitioner that the



impugned order of tagging has been passed, without however suspension or cancellation of the license of the petitioners, this Court finds the action of the respondents to be arbitrary and in clear violation of the pre-conditions mentioned in Clause 7(vi) of the Public Distribution System (Control) Order, 2001.

6. In the above view of the matter, the impugned order of tagging cannot be sustained and stands quashed. The writ petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
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