

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1489 of 2017

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Sujit Kumar, Son of Late Vijay Bahadur Sah, Resident of Village - Gogari, P.S.-
Gogari, District-Khagaria.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Food & Civil Supply
Department, Old Secretariat Patna
2. The Collector, Khagaria.
3. The S.D.O., Gogari, Khagaria.
4. The Block Supply Officer, Gogari, Khagaria.

.... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Anand, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-05-2018

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 dated 23.08.2016 passed by the learned Collector,
Khagaria in Supply Appeal No. 19/2009-10 whereby and whereunder
the appeal preferred against the order dated 20.07.2009 was
dismissed.

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 August, 2008 to October 2008 under BPL 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 Bihar State Food & Civil Supplies Corporation has not delivered the food grains within the stipulated time. Hence, the petitioner has failed to deposit the demand draft for the aforesaid months. 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 has been heard. No counter affidavit has been filed till date.

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 20.07.2009 (Annexure-6) as also the appellate order dated 23.08.2016 (Annexure-7) 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.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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