

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11814 of 2016

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Bipin Kumar Paswan, son of Sri Bishundeo Paswan, resident of Village + P.O. -
Saidpur, P.S. - Mansi, District - Khagaria.

.... Petitioner

Versus

1. The State of Bihar through Collector, Khagaria.
2. The Collector, Khagaria.
3. The S.D.O., Khagaria.
4. The BSO, Khagaria.

... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Anand, Advocate
For the Respondents : Mr. Prashant Pratap, GP6

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-05-2018

I.A. No. 9724 of 2016

The interlocutory application has been filed for amending the prayer to the extent to challenge the order dated 06.09.2016 passed by District Magistrate, Khagaria in Supply Appeal Case No. 07/2009-10/18 of 2013 whereby and whereunder the appeal preferred by the petitioner against the order dated 12.02.2009 was rejected.

2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated as forming part of the writ petition.

CWJC No. 11814 of 2016



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

4. The present writ petition has been filed for quashing the order dated 12.02.2009 passed by learned SDO, Khagaria contained in Memo No. 59 whereby and whereunder the PDS licence of the petitioner being licence no. 22M/2007 was cancelled.

5. 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 October, 2008 to February, 2009 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.

6. 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.

7. 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 12.02.2009 (Annexure-2) as also the appellate order 06.09.2016 passed by District Magistrate, Khagaria in Supply Appeal Case No. 07/2009-10/18 of 2013 (Annexure-6) are accordingly hereby quashed and the license of the petitioner is directed to be restored without undue delay. A direction is being issued having regard to the statement made at the Bar on behalf of the petitioner that no third party right has been created with regard to the PDS licence in question.

8. 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.



9. The writ petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.05.2018
Transmission Date	N.A.

