

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17019 of 2016

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Rakesh Kumar, S/o Dhruv Narayan Ojha, Resident of Belwa, Madho, Panchayat
Gopi Chapra, Block - Kotwa, P.S. Kotwa, District - East Champaran

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection
Department, Bihar, Patna
2. The Collector, East Champaran at Motihari
3. The Sub Divisional Officer, Sadar Motihari
4. The Block Supply Officer, Kotwa, East Champaran, Motihari

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate

For the Respondents : Mr. Sanjay Kr.Giri-GP9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-05-2018

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

2. The present writ petition has been filed for quashing
the order contained in Memo No. 263 dated 21.07.2015 passed by
learned Sub-Divisional Officer, Sadar Motihari whereby and
whereunder the PDS licence of the petitioner being licence no.
02190019/2007 has been cancelled and further for quashing the order
dated 02.08.2016 passed in Case No. Supply 33/2015 by learned
District Magistrate, East Champaran, Motihari by which the appeal filed
on behalf of the petitioner has been rejected and the order of learned
S.D.O. Sadar Motihari has been affirmed.

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 April, May and June 2015 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 contained in Memo No. 263 dated 21.07.2015 passed by learned Sub-Divisional Officer, Sadar Motihari (Annexure-5) and the appellate order dated 02.08.2016 passed in Case No. Supply 33/2015 by learned District Magistrate, East Champaran, Motihari (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.

(Vikash Jain, J)

B.T/Chandran

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

