

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18754 of 2016

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Ram Sevak Yadav S/o Sitaram Yadav Resident of Village- Hujrapur, P.S.- Ghoshi, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Jehanabad.
2. The District Magistrate-cum-Collector, Jehanabad.
3. The Sub Divisional Officer, Jehanabad.
4. The Sub Election Officer, Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dhananjaya Nath Tiwari, Adv. Mr. Ashok Kumar Choudhary, Adv. Mr. Akshansh Ankit, Adv.
For the Respondent/s	:	Mr. Md. Anisul Haque, AC to AAG5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 14-03-2018

Heard learned counsel for the petitioner and counsel for the State.

In this case, the petitioner is challenging the Memo No. IV-124-2010-1774/Aapurti dated 17.8.2016 passed by the Sub-Divisional Officer, Jehanabad with respect to License No. 01/2008.

The petitioner is a license holder of a P.D.S. shop. A complaint was received by the Collector that the petitioner is not distributing the ration of PDS material of what he was required to do it. On receipt of the complaint, he authorized Dhiraj Kumar, Sub Election Officer, Jehanabad, to hold a surprise check and submit a report. In pursuance thereof, he conducted enquiry and found altogether 11 irregularities have been mentioned in the order of the S.D.O. and the S.D.O. having found that the



petitioner is not running the P.D.S. shop as per scheme and the guideline, giving less quantity of essential commodities, charging higher rate and not distributing PHH and also forcefully keeping the extra coupon, not maintaining the records and thereby after recording the findings, canceled the license of the petitioner.

The petitioner has taken a very short point in the matter that as per order of the S.D.O., it appears that the proceeding has been set on motion based on the report of Dhiraj Kumar who was the Sub Election Officer, was appointed by the Collector on receipt of the complaint. He has submitted that Dhiraj Kumar cannot be appointed as an enquiry authority as per the scheme and the guideline of Bihar Targeted Public Distribution System Control Order, 2016, no person from the Election Department can be appointed to hold an enquiry. This fact has not been denied by the counsel for the State but submitted that altogether four times the enquiry was conducted and every time it was found that the petitioner was/is involved in wrong doing as well as not distributing the ration as per the guideline issued from time to time as well as charging higher rate, giving lesser quantity of the kerosene oil and forcefully keeping the coupon of the beneficiaries.

Admittedly, there is no dispute that the enquiry has been conducted by an officer who has not been authorized under the Bihar Targeted Public Distribution System Control Order, 2016



and this issue has already been decided by this court in C.W.J.C. No. 15152 of 2014 (Pahari Sah Vs. State of Bihar & Ors.) and other analogous cases disposed of on 15.5.2015 and in CWJC No. 489 of 2014 (Santosh Kumar Ram @ Santosh Ram Vs. The State of Bihar & Ors.) disposed of on 7.4.2015. In both the aforesaid orders, identical issue was raised and having been decided that if a Committee has been constituted of an unauthorized person, cannot be a basis for initiation of proceeding for canceling of license. The Committee must be consisting of proper person and only he can pass order.

In view of the above, this Court finds that the order contained in Memo No. IV-124-2010-1774/Aapurti dated 17.8.2016 passed by the Sub-Divisional Officer, Jehanabad is not sustainable and the same is quashed. However, the authority will be at liberty to take proceeding in accordance with law.

In the result, this writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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