IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1924 of 2019

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Babita Kumari wife of Ram Babu Shani resident of ward No.11, Bruar, P.S-Baubarhi, District-Madhubani.

... ... Petitioner

Versus

1. The State of Bihar through Principal Secretary Department of Food and Civil Supply and Control Department, Govt. of Bihar, Patna.
2. The Additional Secretary Food and Consumer Protection Department Govt. of Bihar, Patna Bihar
3. The District Magistrate Madhubani Bihar
4. The Sub- Divisional Officer,Madhubani Sadar,Madhubani Bihar
5. The District supply Officer, Madhubani Bihar
6. The Block Development officer, Babubarhi, Madhubani Bihar
7. The Block Supply Officer, Babubarhi, Madhubani Bihar

... ... Respondents

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Appearance :
For the Petitioner/s : Mr. D.N. Tiwari, Advocate
Mr.Gagan Deo Yadav, Advocate
For the Respondent/s : Mr.Anisul Haque AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 22-02-2019 Learned counsel for the petitioner submits that in terms of Rule 9(vi) of the Bihar Targeted PDS (Control) Order, 2016, it is only where the lower court's order has been stayed in appeal or in revision relating to a cancelled license, the said cancelled license shall not be enumerated in the list of vacant fair price shop.

It is submitted in the present case that no stay is operating against the cancelled license, therefore, the District

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Magistrate would not be justified in staying the process for grant of fresh license with respect to the shop in question. It is submitted that the petitioner has represented in this respect before the District Magistrate, Madhubani vide Annexure-4 to the writ application but the representation of the petitioner is still pending consideration.

On the other hand, learned counsel representing the State submits that because one appeal is pending against the cancellation action, the District Magistrate would be justified in keeping the matter for grant of license pending.

In the given facts and circumstances of the case, it appears to this court that such shops in respect of which a cancelled license is under challenge in appeal or revision are not required to be enumerated in the list. In the present case, it appears that the shop was advertised for grant of license but at this stage it has come to the notice of the District Magistrate that an action cancelling the license is pending in appeal. The District Magistrate is himself the appellate authority.

In that view of the matter, instead of keeping the matter pending for a long time it is expected that he will hear the pending appeal against the cancellation action and consider the same simultaneously with the representation of the

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petitioner.

Let such exercise be taken up and be concluded within a period of 90 days from the date of receipt/production of a copy of this order.

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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