

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2939 of 2019

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Binod Kumar Gupta, son of Late Balchand Saw, resident of Village-
Pirkhasaray Saraiyabazar, Village Panchayat- Uchauli, Police Station-
Khizarsarai, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub- Divisional Officer, Nimchak Bathani, District- Gaya.
4. The Block Supply Officer, Khizarsarai, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binay Kumar
For the Respondent/s : Mr.S.Raza Ahmad (AAG5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 19-06-2019 The petitioner, in the present case, is aggrieved and dissatisfied with the memo no.2112 dated 31.12.2018 passed by the Licensing Authority i.e. the Sub-Divisional Officer, Nimchak Bathani, Gaya whereby the licence of the petitioner granted under Public Distribution System (Control) Order, 2001 now known as Bihar Targeted PDS (Control) Order, 2016 has been cancelled.

In course of argument, learned counsel for the petitioner as well as the State agree that the facts of the case as well as the grounds taken in the writ application are identical to those which were subject matter of consideration in CWJC No.2477 of 2019 which has been disposed of by this Court vide



order dated 29.04.2019. The operative part of the order dated 29.04.2019 reads as under:-

“After hearing learned counsel for the parties and on perusal of the records, this Court finds substance in the submission of learned counsel for the petitioner. It appears that on the basis of the complaints made by twelve consumers in the public meeting before the Hon’ble Minister the impugned action was initiated. The petitioner submitted his reply along with nine affidavit(s) of the consumers but those affidavits were not accepted by the Sub-Divisional Officer, Nimchak Bathani, Gaya saying that those affidavit(s) have been managed. In the opinion of this Court, once the petitioner was able to place on record the nine affidavit (s) of the consumers, the veracity of the complaint were required to be examined by conducting necessary verification by the Sub-Divisional Officer and only thereupon an independent view of the matter could have been taken. It has not been done in the present case. For these reasons the impugned order is liable to be held bad. Annexure ‘5’ as contained in Memo No.2111 dated 31.12.2018 is, thus, set aside. The matter is remitted to the Sub-Divisional Officer, Nimchak Bathani, Gaya for a fresh consideration of the entire matter after conducting proper verification of the affidavit(s) from the consumers and upon taking an independent view of the matter. Let



the whole exercise be completed within a period of 90 days from the date of receipt/production of a copy of this order.

It will be open for the petitioner to request the SubDivisional Officer, Nimchak Bathani, Gaya to restore his supplies.”

Learned counsel for the parties submit that the only difference in the present case is that in this case there are 11 consumers who had made a complaint in the public meeting whereas in the case abovementioned there were 12 consumers who had made a complaint in the public meeting of the Minister.

Considering the facts and circumstances of the case and the submissions that the case is identical to CWJC No.2477 of 2019, this Court is hereby sets aside the impugned order as contained in Annexure-6 to the writ application and remit the matter back to the Sub-Divisional Officer, Nimchak Bathani, Gaya for fresh consideration as has been ordered in CWJC No.2477 of 2019. The order passed in CWJC No.2477 of 2019 shall be equally applicable to the petitioner of this case.

This writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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