

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25409 of 2019

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Raj Kishore Singh S/o Sahdeo Singh Resident of Village-Paharitar, P.S.-
Islampur, District-Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Collector, Nalanda, Biharsharif.
3. The Sub-Divisional Officer, Hilsa, Nalanda.
4. The Block Supply Officer, Islampur, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Dhananjaya Nath Tiwari
For the Respondent/s	:	Mr.S. Raza Ahmad (AAG-5)
		Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 13-02-2020 The present writ petition has been filed for setting aside the order of cancellation of the P.D.S. dealership of the petitioner dated 12.11.2016, passed by the learned Sub-Divisional Officer, Hilsa on the ground of lodging of an FIR against the petitioner as also for quashing the opinion of the District Supply Officer, Nalanda dated 08.08.2019.

The learned counsel for the petitioner has submitted that the petitioner had challenged the aforesaid order dated 12.11.2016 in appeal and the learned District Magistrate, Nalanda by an order dated 08.10.2018 found the action of the Sub-Divisional Officer, Hilsa, Nalanda to be illegal, hence had



set aside the aforesaid order dated 12.11.2016 and remanded the matter back to the Sub-Divisional Officer, Hilsa for fresh consideration but neither any order has been passed afresh by the S.D.O., Hilsa nor the license of the P.D.S. dealership of the petitioner has been restored.

The learned counsel for the petitioner has also referred to Rule 28 of the Bihar Targeted P.D.S. (Control) Order, 2016 and submitted that there is no provision for cancellation of P.D.S. license under the said Control Order, 2016 on the ground of lodging of an FIR. It is further submitted that the Sub-Divisional Officer, Hilsa has taken the opinion of the District Supply Officer, Nalanda and in pursuance thereof, the District Supply Officer, Nalanda has given his opinion vide letter dated 08.08.2019 wherein it has been submitted that since the conditions stipulated in the license has been violated by the petitioner, his P.D.S. dealership license is not liable to be restored.

The learned counsel for the petitioner has submitted that the District Supply Officer, Nalanda has got no power under the Act or Rule to issue any type of directions.

Per contra, the learned counsel for the respondents has submitted that since upon remand by the District



Magistrate, Nalanda, the Sub-Divisional Officer, Hilsa has not re-considered the case of the petitioner and passed a final order, the Sub-Divisional Officer, Hilsa would now take appropriate action, in accordance with law and pass final order with regard to the case of the petitioner within a period of four weeks from the date receipt /production of a copy of this order.

It is equally not disputed by the learned counsel for the respondents that the District Supply Officer, Nalanda has got no power either under the Act or the Rule to give any opinion to the Sub-Divisional Officer, Hilsa.

Having regard to the facts and circumstances of the case, the directions contained in letter dated 08.08.2019 issued by the District Supply Officer, Nalanda are held to be null and void, being without jurisdiction. The Sub-Divisional Officer, Hilsa is further directed to consider the case of the petitioner and pass final orders within a period of four weeks of receipt/production of a copy of this order, in compliance of the order of remand dated 08.10.2018, passed by the District Magistrate, Nalanda in Supply Case No. 9 of 2016 (Raj Kishore Singh vs. State), as also considering the order dated 19.12.2018 passed by this Court in CWJC No. 24031 of 2018, which shall be produced by the petitioner before the Sub-Divisional



Officer, Hilsa along with a copy of this order.

The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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