

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.521 of 2021

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Birju Thakur son of Ram Prasad Thakur Resident of Village- Talimpur, P.S.-
Madhuban, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Food, Supply and Consumer Protection Department, Patna.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate Cum Collector, East Champaran, Motihari.
4. The Additional Collector, Public Grievance Redressal Office, East Champaran, Motihari.
5. The District Supply Officer, East Champaran.
6. The Sub- Divisional Public Grievance Redressal Officer, Pakaridayal, District- East Champaran.
7. The Sub- Divisional Officer, Pakaridayal, East Champaran.
8. The Block Supply Officer, Madhuban Block, East Champaran.
9. The Marketing Officer, Madhuban Block, District- East Champaran.
10. The Public Distribution System Dealer Cum Madhuban PACS Chairman namely Channu Sah, Son of name not known, Resident of Village and P.S.- Madhuban, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Rajpati, Adv.
For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 26-10-2021

The present writ petition has been filed for commanding the respondents to cancel the PDS license of the Respondent No. 10 as also to take legal action against the Respondent No. 10 by instituting an FIR.

2. The case of the petitioner is that the



petitioner is a consumer of the Respondent No. 10, namely, Channu Sah, who is a public distribution system dealer cum Madhuban PACS Chairman and has been granted PDS license for running PDS shop in the Madhuban Block, District-East Champaran. It is also the case of the petitioner that the petitioner was not given food-grains by the Respondent No. 10 in the month of May, 2016 and in fact, he had sold the food-grains allotted to him in the month of May, 2016 in black market. The petitioner is stated to have approached the Bihar Public Grievances Redressal Forum, whereupon the Sub-Divisional Public Grievance Redressal Officer, Sub-Division, Pakridyal, by an order dated 24.12.2016, had forwarded the case of the petitioner to the Sub-Divisional Officer, Pakridyal, to take appropriate action. Thereafter, the petitioner had filed an appeal before the First Appellate Authority cum Additional Collector (Public Grievance Redressal), East Champaran, Motihari, on 23.1.2017, whereupon, the First Appellate Authority, by an order dated 26.4.2017, had directed the Sub-



Divisional Officer cum Licensing Authority, Pakridyal, to get the forged signature of the petitioner made in the distribution register compared with the actual signature of the petitioner by sending both the signatures to the Crime Investigation Department, Patna and after receipt of the report, take appropriate action in accordance with law. It is further stated by the petitioner that the Sub-Divisional Officer, Pakridyal, vide letter dated 20.9.2018, had sent the specimen signature of the petitioner alongwith the original register of the Respondent No. 10 to the Crime Investigation Department.

3. It appears that the petitioner had earlier filed a writ petition bearing CWJC No. 19123 of 2017 before this Court for implementation of the aforesaid order dated 26.4.2017, passed by the First Appellate Authority, however, the petitioner had withdrawn the said writ petition with liberty to take recourse to filing of a second appeal for redressal of his grievances, in pursuance whereof, the petitioner had filed a second appeal before the



District Magistrate, East Champaran, on 2.3.2019. The District Magistrate, East Champaran, vide order dated 23.10.2019, had disposed of the aforesaid second appeal filed by the petitioner with advice to the petitioner to seek redressal of his grievances before the appropriate authority in accordance with law. The petitioner had then filed a revision petition before the learned Commissioner, Tirhut Division, Muzaffarpur, on 5.11.2019, however, the same is still stated to be pending adjudication.

4. Per contra, the learned counsel for the petitioner, Sri Upendra Pratap Singh (AC to SC-4), has submitted that the present writ petition is not maintainable inasmuch as the petitioner has got efficacious and alternative remedy under the provisions of the Bihar Targeted PDS (Control) Order, 2016.

5. I have heard the learned counsel for the parties and perused the materials on record as also gone through the scheme of the Bihar Targeted



Public Distribution System (Control) Order, 2016, which has been framed for regulating the ration cards, licensing and regulation of fair price shops, operation of fair price shops and contains provisions for monitoring, transparency, accountability, penalty, search and seizure, appeal and other related issues. This Court finds that the petitioner has an alternative and efficacious remedy under the aforesaid Bihar Targeted Public Distribution System (Control) Order, 2016, which is apparent from bare perusal of Rule 3, 4, 14 (more particularly Sub-Rule v), 20, 24, 25, 27 and Rule 31 (more particularly Sub-Rule iii), thereof. It is apparent from the records that despite the advice of the second appellate authority, in its order dated 23.10.2019, to the petitioner to avail redressal of his grievances before the appropriate forum under the appropriate provision of law, the petitioner has failed to do so and instead, has approached this Court by filing the present writ petition. It is apparent from the records as also the pleadings made in the present writ petition that



the petitioner has not taken recourse to the remedies available under the Bihar Targeted PDS (Control) Order, 2016 and has instead been approaching the wrong forums including filing of the present writ petition, which is not maintainable. It is a trite law that the High Court has the discretion not to entertain a writ petition and one of the restrictions placed on the powers of the High Court is where an effective and alternative remedy is available to the aggrieved person. It is equally a well-settled law that when a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution of India and this Rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion. Reference be had to the judgments rendered by the Hon'ble Apex Court in the case of **Seth Chand Ratan vs. Pandit Durga Prasad (D) By Lrs. & Others**, reported in (2003) 5 SCC



399, the one reported in (1974) 2 SCC 706 (**Babubhai Muljibhai Patel vs. Nandlal Khodidas Barot & Others**), the one reported in (2008) 5 SCC 632 (**Rajasthan SEB vs. Union of India & Ors.**) and the one rendered in the case of **Radha Krishan Industries vs. State of Himachal Pradesh & Ors.**, reported in (2021) 6 SCC 771.

6. Having regard to the facts and circumstances of the case and considering the fact that the petitioner has an alternative and efficacious remedy available to him under the law, this Court finds that the present writ petition is not maintainable, hence, the same stands dismissed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	30.11.2021
Transmission Date	NA

