

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9578 of 2020

Ranjeet Kumar Sah, Son of Shivchandra Sah, resident of Dagmara, P.S.- Kunauli,
District - Supaul (Proprietor - M/S. Laxmi Traders, Piprahi Dagmara, Block-
Nirmali, District - Supaul).

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Agriculture, Government of Bihar, Patna.
2. The Director Agriculture Department, Bihar, Patna.
3. The D.M. , Supaul.
4. The District Agriculture Officer, Supaul.
5. The Sub-Divisional Officer, Nirmali.
6. The Block Agriculture Officer, Nirmali, District - Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S.D.Sanjay, Sr. Advocate Mr.Shailendra Kumar Singh Mr. Mohit Agarwal Ms. Priya Gupta
For the Respondent/s	:	Mr.Anant Prasad Singh, AAG-15

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

4 15-11-2021 Heard Mr. S.D.Sanjay, learned Senior Counsel

 appearing on behalf of the petitioner and Mr. Anant Prasad

 Singh, learned Additional Advocate General No.15, for the State

 of Bihar.

2. This writ application has been filed seeking

direction to the respondents to revoke the order of suspension of

the petitioner's license, passed in exercise of power under the

second proviso to sub-clause (2) of Clause 31 of the Fertilizer



(Control) Order, 1985 (hereinafter referred to as ‘the Control Order,1985). A direction is also being sought to the respondents to dispose of the petitioner’s representation in relation to suspension of the petitioner’s license.

3. Mr. S.D.Sanjay, learned Senior counsel appearing on behalf of the petitioner, referring to the second proviso to sub-clause (2) of Clause 31 of the Control Order, 1985, has submitted that in the present case the order suspending the license was passed on 24.08.2020. He contends that it was obligatory for the registering authority to have passed a final order within fifteen(15) days from the date of issue of the order of suspension in accordance with the first proviso to sub-clause (2) of Clause 31 of the Control Order, 1985. He argues that the second proviso to the said Clause mandates automatic revocation of an order of suspension, where no final order is passed within the aforesaid period of fifteen days. He has contended that despite the said clear and specific provision under the second proviso to sub-clause (2) of Clause 31 of the Control Order, 1985, the authorities have not revoked the order of suspension.

4. He has placed reliance on a Division Bench decision of this Court in case of **Messrs S.R. Fertilizer &**



Chemicals Private Limited and anr. Vs. The State of Bihar and another reported in **1990 (2) PLJR 516** to support his submission.

5. This being an admitted fact that the order of suspension was passed on 24.08.2020 and indisputably, no final order could be passed within fifteen days from the passing of the order of suspension as contemplated under the first proviso to sub-clause(2) of Clause 31 of the Control Order, 1985, the order of suspension lost its efficacy by operation of the second proviso to sub-clause (2) thereof.

6. Mr. S.D.Sanjay, learned Senior Counsel, has, however, submitted that the respondent-authorities are not permitting the petitioner to carry on his business in dealing with fertilizers. We have not noticed material on record to suggest that the respondents have, in any manner, obstructed the petitioner in carrying on his business on the strength of the order of suspension, after it became inoperative on completion of fifteen days from the date of its issue. There is no foundation in the pleadings to support this submission of the learned Senior Counsel. Counter affidavit has been filed on behalf of respondent Nos. 3,4,5 and 6, even in the counter affidavit there is no averment that suspension of petitioner's license under



order of the District Agricultural Officer is still continuing. In absence of any pleadings in record even suggesting that the suspension continues, or that based on the order of suspension dated 24.08.2020 any authority/officer has in any manner interfered with the petitioner's operation of license/petitioner's business, there is no occasion for this Court to issue any order/direction in exercise of writ jurisdiction.

7. In this connection this Court would refer to decision of the Apex Court in the case of **Union of India Vs. Dinesh Prasad** and consider it useful to reproduce paragraph 20 of the said judgment reported in **(2012) 12 SCC 63**, which reads as follows:-

“20. In our view, the learned Single Judge was clearly in error in allowing such argument. Firstly, the argument was raised without any foundation in the writ petition. No plea of actual or likelihood of bias was raised in the writ petition. There was also no plea taken in the writ petition that he was denied fair trial in the course of Summary Court Martial. Secondly, and more importantly, the learned Single Judge overlooked and ignored the statutory provisions referred to hereinabove. The Division Bench also failed in considering the matter in right perspective and in light of the provisions in the Army Act and the Army Rules.”

8. This writ petition was filed in December, 2020.



Much before filing of the writ petition, by operation of second proviso to sub-clause(2) of Clause 31 of the Control Orders, the order of suspension had become non-existent. In such view of the matter, in our opinion, it was meaningless for the petitioner to have sought revocation of the order of suspension by filing the present writ application. In case of **Messrs S.R. Fertilizer and Chemicals** (supra), this Court, noticing the aforesaid second proviso to sub-clause (2) of Clause 31 of the Control Orders and the fact that the business premises in question was sealed by the authorities, had passed an order, directing the District Agriculture Officer, Muzaffarpur to remove the seal, the order of suspension having become inoperative.

9. No such situation exists in the present case, requiring any direction from this Court on the basis of materials available on record.

10. For the reasons noted above, this writ application stands disposed of with the aforesaid observations.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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