

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 16542 of 2021

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Dinesh Sharma Son of Late Rangbahadur Singh, Resident of Village - Kauri,
Village - Panchayat - Katka Paigamberpur, Police Station - Paliganj, District -
Patna.

... .. 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, Patna.
3. The Sub-Divisional Officer, Paliganj, Dist. - Patna.
4. The Block Supply Officer, Paliganj, Dist. - Patna.
5. The Block Supply Officer, Masaurhi, Dist. - Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Namrata Mishra, Advocate
For the Respondent/s : Mr. Upendra Pratap Singh (AC to SC 4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 24-09-2021 The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

The present writ petition has been filed seeking quashing of the order dt. 2.9.2021, passed by the Sub Divisional Officer, Paliganj (Patna), whereby the P.D.S. license of the petitioner bearing License no. 05 of 2016-17 has been cancelled.

Though the learned counsel for the petitioner submits that the petitioner would be preferring an appeal under



Rule 32(iii) of the Bihar Targeted Public Distribution System (Control) Order, 2016 before the appellate authority, however it is submitted that primarily the impugned order dated 02.09.2021 has been passed on account of the shop of the petitioner having not been found at the place where it ought to have been, to which it has been submitted that the petitioner had filed his reply to the show cause notice, inter alia contending therein that on account of emergent situation due to heavy rains, in order to save the food grains from rotting, the shop was shifted to an adjacent house on 22.06.2021 and the inspection was held immediately on the very next day i.e. on 23.06.2021, however ***Rule 17 (iv) of the Bihar Targeted Public Distribution System (Control) Order, 2016***, provides that the storage or business place of the essential commodities can be shifted without permission of the licensing authority, to a place not described in the license, in emergency situations (such as earthquake, flood, or other reasons like sudden damage in the building, etc), but written information is required to be given to the licensing authority within 72 hours. Thus, it is submitted that this aspect of the matter, though is factual in nature but is required to be considered by the appellate authority. It is also submitted that there is no evidence of the petitioner having indulged in black-



marketing of the food grains in question.

The learned counsel for the State Sri Upendra Pratap Singh (AC to SC 4) submits that the appellate authority shall consider all the issues including the aforesaid aspect of the matter, as canvassed by the learned counsel for the petitioner.

Having regard to the facts and circumstances of the case, the present writ petition stands disposed of as not pressed, however with liberty to the petitioner to file appropriate appeal under ***Rule 32(iii) of the Bihar Targeted Public Distribution System (Control) Order, 2016*** against the impugned order dated 02.09.2021 and in case, such an appeal is filed within a period of two weeks from today, the appellate authority shall consider the same on merits and pass a reasoned and a speaking order, in accordance with law, within a period of six weeks, thereafter. It is needless to state that the Appellate authority shall also consider the aforesaid aspect of the matter, as argued by the learned counsel for the petitioner.

(Mohit Kumar Shah, J)

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