

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10075 of 2021

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Ganesh Kumar, Son of Late Kamleshwari Thakur, Resident of Mohalla-Hajipur (Khagaria) Ward No. -17, Khagaria Municipal Council, P.S. and District- Khagaria, 851204, Presently P.D.S. Dealer, Ward No.-17, Khagaria Municipal Council, P.O. and P.S. and District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Divisional Commissioner Munger Division, Munger.
3. The Collector Khagaria.
4. Sub- Divisional Officer Khagaria.
5. The Block Supply Officer Khagaria, District- Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dronacharya, Advocate
For the Respondent/s : Mr. S. Rajz, Ahmad, AAG-5
Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-01-2022

Petitioner has prayed for the following relief/s :-

That this application is for issuance of an appropriate writ(s)/
Order(s) or direction(s) and thereby to issue a writ in the nature of
'Mandamus' directing the respondent S.D.O. Khagaria to pass
proper and necessary order in accordance with law to decide the
matter as per Clause-28 of Bihar Targeted P.D.S. (Control) Order,
2016 or Pass any other order/s in accordance with law.



That this application is for issuance of an appropriate writ(s)/ Order(s) or direction(s) and thereby to issue a writ in the nature of 'Mandamus' directing the respondent S.D.O. Khagaria to pass proper and necessary order in accordance with law to decide the matter as per Clause-28 of Bihar Targeted P.D.S. (Control) Order, 2016 or Pass any other order/s in accordance with law.

After the matter was heard for some time, Shri S. Raza Ahmad, learned Additional Advocate General No. 5 fairly states that the full text of Section 28 of the Bihar Targeted Public Distribution System Control Order, 2016 was not brought to the notice of the Court, which led to the passing of an order dated 01.12.2021 in C.W.J.C. No. 4332 of 2021, titled as Doctor Yadav Vs. The State of Bihar and Ors.

Had the full text been brought to the notice of the Court, we are sure that the Court would have taken a different view, for as we notice, the provisions are unambiguously clear and the time frame stipulated in Rule 28 of the Order itself stipulates a further condition being adhered to "as far as possible".

In this view of the matter, reliance on the said decision is totally misconceived in law for the decision being *per incurium*.

At this stage, learned counsel for the petitioner fairly states that petitioner shall be content if the petition is



disposed of with direction to the respondent authorities to consider and decide the petitioner's case, which is pending consideration, on expeditious basis.

Shri S. Raza Ahmad, learned Additional Advocate General No. 5 states that State has no objection to the same.

As such, petition stands disposed of in the following terms:-

(a) The authority concerned shall consider and decide the case of confiscation/proceedings expeditiously by a reasoned and speaking order preferably within a period of four weeks from the date of placing on record copy of the order;

(b) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(c). Petitioner shall appear before the authority concerned on 17th of January, 2022 along with a copy of this order;

(d) Petitioner undertakes to fully cooperate and not take any unnecessary adjournment;

(e) Equally, liberty is reserved to the



petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(f) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(g) Liberty reserved to the petitioner to approach the Court, if the need so rises subsequently on the same and subsequent cause of action;

(h) We have not expressed any opinion on merits. All issues are left open;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(Sanjeev Prakash Sharma, J)

Ashwini/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	05.01.2022
Transmission Date	

