

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9836 of 2022

Himalaya Agro Chemicals Private Limited Unit- II, a Company incorporated under the provisions of the Companies Act, 1956, having its Unit at NH- 31, Bypass Road, Belori, Purnea, Bihar, through its Director, Shri Kumar Krishna Prakash, aged about 59 years (Male), son of Onkar Mal Agrawal, resident of NH 31, Bypass Road, Belouri, Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
2. The Principal Secretary, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
3. The Agriculture Director, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
4. The Joint Director, Shashya, Purnia Division, Purnea.
5. The Assistant Director, Plant Conservation, Purnea.
6. The District Agriculture Officer, Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Suraj Samdarshi
For the Respondent/s : Mr.Ashok Kumar Pathak

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

4 09-11-2022 We have heard Mr. Suraj Samdarshi, learned



counsel for the petitioner and Mr. Ashok Kumar Pathak for the State.

This writ petition has been preferred by the petitioner, who is a licensee under the Fertiliser Control Order 1985 (hereinafter referred to as the Control Order, 1985), whose license has been suspended under Clause 31 (2) of the Control Order, 1985 and no final order has yet been passed.

It appears from the pleadings made in the writ petition that on 30.04.2022, the manufacturing unit of the petitioner was inspected and four samples were recovered from different batches of manufactured fertilizer, which ultimately was not found to be of the requisite standard. The license of the petitioner was suspended on 18.06.2022 in exercise of the powers conferred under Clause 31 (2) of the Control Order, 1985 by the Agriculture Director, seeking an explanation from the petitioner in his defense, which the petitioner had promptly filed.

It has been urged on behalf of the petitioner



that an objection was raised with respect to the process of drawing the aliquot and putting it to test.

The last submission urged on behalf of the petitioner is that whatever was the outcome of the sample testing, the license of the petitioner could not have been kept under animated suspension for more than 15 days, which time frame has been provided in the statute itself. If at all the final order is not passed within 15 days of the suspension of the license, the suspension order is deemed to have been vacated/revoked.

No explanation has been provided by the State for keeping the proceedings for final order with respect to license of the petitioner pending even when samples have been drawn and tested.

The learned counsel for the petitioner has further submitted that even the result of the sample testing is not in accordance with rules prescribed in that regard and as noted above, even the sampling procedure was defective.

Be that as it may, we see no reason why the license of the petitioner be kept under continued



suspension when the authorities are not forthcoming with any reason for not passing a final order.

We are left with no option but to quash the order of suspension of license of the petitioner and direct the authorities to issue fresh notice to the petitioner for either debarment, suspension and cancellation or his license under Clause 31 (1) of the Control Order, 1985, if so advised.

We are making it clear that, we have not expressed any opinion about the correctness of the proceeding initiated against the petitioner or the defense of the petitioner but we have only taken note of the fact that notwithstanding every process having been completed for passing a final order, no final order has been passed upto now, invoking the provisions contained in Clause 31 (2) which provides for automatic revocation of suspension in case of no final order is passed within a period of 15 days and that also without any reason.

It is expected that the proceeding be completed within a period of 60 days from the date of receipt /



production of a copy of this order and during this period a decision would be taken by the authorities whether to permit the petitioner to sell fertilizer existing in his stock and for which an application has reportedly been made by the petitioner.

With the afore-noted direction, the writ petition stands disposed of.

(Ashutosh Kumar, J)

SONALI/Sunil/-

(Nawneet Kumar Pandey, J)

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