

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18702 of 2021

Shiv Shankar Sah, S/o- Rajendra Sah, R/o Village- Shobhan, Ward No. 7,
Block- Khanpur, P.S.- Khanpur, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Food and Consumer Protection Department, Government of Bihar, Old Secretariat Patna.
2. The Collector cum District Magistrate, Samastipur.
3. The Sub Divisional Officer, Samastipur.
4. The Block Supply Officer Khanpur, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar, Advocate
For the Respondent/s : Mr.Arvind Ujjwal, SC-4

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

7 12-04-2022 In the order dated 15.02.2022 passed in this case we have taken judicial notice of the fact that a considerable number of writ petitions under Article 226 of the Constitution of India are being filed before this Court with a grievance, *inter alia*, that the appeals are pending for indefinite period before the Appellate Authorities under Bihar Targeted Public Distribution System (Control) Order, 2016 (for short 'the Control Order'). All District Officers under their territorial jurisdiction have been designated as the Appellate Authority under Rule 32 (i) of the Control Order for exercising the powers conferred and discharging the functions under the Control Order. The District Magistrates of respective



districts are the Appellate Authorities to consider appeals under the said provision. Sub-rule (iii) of Rule 32 requires the District Magistrate/ Appellate Authority to dispose of the appeals as far as practicable within a period of 60 days. In the said background, we had required personal appearance of the Principal Secretary, Food and Civil Supplies Department, Government of Bihar. In the presence of the Principal Secretary, following order was passed by this Court on 22.02.2022 :-

“Mr. Vinay Kumar, Secretary, Food and Civil Supplies Department, Government of Bihar, is personally present in compliance of our previous order. He submits that two counter affidavits are going to be filed, one sworn by he himself and the other by the District Magistrate of the concerned district.

In response to our concern expressed over pendency of huge number of appeals before the Collectors under the Bihar Targetted Public Distribution System (Control) Order, 2016, Mr. Vinay Kumar has submitted that the Department is taking all possible measures to ensure that the appeals and revisions against orders passed by the authorities under the Bihar Targetted Public Distribution System (Control) Order, 2016, are expeditiously decided.

List this matter on 08.03.2022 along with the counter affidavits, which are going to be filed



on behalf of respondent State. The Court will consider passing appropriate orders on the next date. Personal attendance of the Secretary of the Department stands dispensed with for the present with clear understanding that in view of the fact that the licensees are approaching this Court directly because of lack of efficacious remedy despite there being specific provision for such remedy under the Bihar Targetted Public Distribution System (Control) Order, 2016, the Court may be constrained to pass order for personal attendance of the Secretary, if situation so warrants.

List this case on 08.03.2022.”

2. In the wake of the observations made by this Court in the aforesaid two orders and the assurance given by the Principal Secretary of the Department, learned counsel representing the State of Bihar has filed a supplementary counter affidavit bringing on record a notification issued vide Memo No. 1622 dated 05.04.2022, whereby the Control Order has been amended with the insertion of Rule 32 (viii) after Rule 32(vii) of the Control Order, which reads as under :-

“32(viii). District Officers may delegate the powers conferred to him under Clause 32(i) of the Bihar Targetted Public Distribution System (Control) Order, 2016 to the officers not below the rank of Additional



District Magistrate posted in the district.”

3. The amendment in the statutory Rules, by insertion of the aforesaid provision, has apparently been made to overcome the situation of non-disposal of the appeals by the District Magistrates within the statutory period, understandably because of the nature of their diverse functions and pre-occupations.

4. It is expected that the District Officers of the concerned districts shall give due regard to the said provision under Rule 32 (viii) of the Control Order for ensuring expeditious disposal of the appeals within the time stipulated thereunder.

5. So far as the petitioner's grievance relating to non-disposal of the appeal which was pending before the District Magistrate is concerned, we have been informed that the same has been disposed of and accordingly the petitioner's relief has become infructuous.

6. This application stands disposed of accordingly, with the aforesaid observations.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

Rajesh/-

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