

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8287 of 2023

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M/s Shivam Raj Trading Farakia Raniganj, Araria through its proprietor Rajesh Sah @ Rajesh Kumar Sah, aged about 43 years (Male), S/O Panandi Prasad @ Panandi Sah, Resident of Village- Farakia, P.S. - Bousi, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through Director, Agriculture, Bihar, Patna.
2. The Joint Director, Agriculture, Purnea Division, Purnea.
3. The District Agriculture Officer, Araria.
4. The Block Agriculture Officer, Raniganj, District - Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Adv. Mr. Dhananjaya Nath Tiwari, Adv.
For the Respondent/s	:	Mr. Raghwanand (Ga11) Mr. Pratik Kumar, AC to Ga-11

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

8 06-11-2023 Heard learned counsel for the parties.

2. The present writ petition has been filed for the following reliefs:-

"(i) For setting aside the order contained in Memo No. 414 dated 31.01.2023 passed by the District Agriculture Officer, Araria by which the retail license of the petitioner being license No. CFK02011800014/2017-18 issued under the provisions of the Fertilizer Control Order, 1985 has been cancelled and further be pleased to restore the license of the petitioner.

(ii) The respondent authority



may be directed to unseal the business premises of the petitioner because there is no provisions to put seal on the business premises under the fertilizer control order 1985."

3. Learned counsel for the petitioner submits that the sole ground given in the show cause notice dated 25.1.2023 vide Memo No. 329 for cancelling the license of the petitioner was that a First Information Report (F.I.R.) bearing Bousi P.S. Case No. 14/2023 had been instituted against the petitioner.

4. Further, the learned counsel for the petitioner has stated that the authorities do not have the power to seal the premises of the petitioner shop. That there is no provision under the act for sealing the premises of the shop of the petitioner and the same is contrary to the provisions of the law.

5. In the counter affidavit filed by the respondent, the above stated position has not been denied by the respondents. However, the learned counsel for the respondents has stated that the present C.W.J.C. is not maintainable as the petitioner has an alternative remedy of filing an appeal under Section 32(A) of the Act.

6. Admittedly, in the present case the only reason for cancelling the license of the petitioner is on the ground of lodging of the FIR against the petitioner and that 58 bags of



fertilizers were found loaded in a tractor near the shop of the petitioner and the said tractor belongs to the petitioner.

7. Except the above ground, no other reasons are shown by the petitioner. Moreover as seen from the impugned order, the authorities have found that there is no variation in the stock found in the shop of the petitioner. This Court in a catena of judgments has held that the license cannot be cancelled on the mere suspicion or on the ground of lodging of the FIR against the license. Further, the authorities have themselves accepted that they do not have power to seal the premises of the petitioner.

8. Having regard to the above stated facts and circumstances, the impugned order is set aside. Consequently, the license of the petitioner is restored and the authorities are directed to unseal the premises in question forthwith, positively within a period of one week from the date of receipt of the copy of this order.

9. With the above directions, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

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