

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16621 of 2023

M/s Kisan Tractors, A proprietary Concern having its place of Business at Village- Singhoul Pokhar, P.O.- Ulao, P.S.- Mofussil, Town and District- Begusarai, Through its Proprietor Ram Naresh Singh, Male aged about 66 years, S/o Late Niras Singh, Resident of Ward No. 2, Near Singhoul Pokhar, P.O.- Ulao, P.S.- Mofussil, Town and District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Agriculture Government of Bihar, Secretariat, Patna.
2. The Secretary, Department of Agriculture Government of Bihar, Secretariat, Patna.
3. The Agriculture Director, Department of Agriculture, Government of Bihar, Krishi Bhawan, Mithapur, Patna.
4. The District Agriculture Officer, Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. SD Sanjay, Sr. Adv.
	:	Mr. Mohit Agarwal, Adv.
	:	Mr. Lokesh Kumar, Adv.
	:	Mr. Rahul Kumar, Adv.
	:	Mr. Vishal Kumar, Adv.
For the Respondent/s	:	Mr. Anil Kumar Verma, AC to (Aag 9)

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

2 22-12-2023 Heard all the parties.

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

“i. For holding that the order of suspension of Fertiliser Dealership and Manufacturing License issued to the petitioner vide letter No. 1784 dated 03.02.2023 under the signature of the Respondent Director of Agriculture, Government of Bihar, Patna is no more effective against the petitioner as the Respondent Director of Agriculture, Government of Bihar has failed to pass a



final order within 15 days of date of issuance of the order of suspension in terms of clause 31(2) second proviso of the Fertiliser (Control) Order, 1985;

ii. For directing the Respondents to issue permissions for lifting raw materials for running its fertiliser manufacturing unit as in terms of clause 31(2) second proviso of the Fertiliser (Control) Order, 1985, the order of suspension dated 03.02.2023 becomes deemed revoked as no final order has been passed within 15 days of the date of issuance of order of suspension as required under clause 31(2) of first proviso of the Fertiliser (Control) Order, 1985;

iii. For direction upon the Respondent Director of Agriculture, Government of Bihar to drop the proceeding initiated for cancellation of Fertiliser Manufacturing and Dealership License of the petitioner firm under clause 31 of the Fertiliser (Control) Order, 1985 vide different show cause notices bearing Letter No. 1681 dated 11.01.2023, Letter No. 1784 dated 03.02.2023, Letter No. 1964 dated 05.04.2023, Letter No. 2292 dated 05.09.2023 and Letter No. 2401 dated 20.10.2023 as the same has been issued in violation of principles of natural justice as the alleged inspection report on the basis of which the show cause notices has been issued has not been provided to the petitioner till 20.10.2023 and also that from the show cause notices the allegation of contravention of Clause 7, 12 & 35 of the Fertiliser (Control) Order, 1985 is not being made out again;

iv. For a declaration that if any order of cancellation or debarment is not passed within 15 days of the order of suspension as mandatory in terms of Clause 31(2) first proviso of the Fertiliser (Control) Order, 1985, the unit of the petitioner cannot be made to be closed for no fault on part of the petitioner, for any other relief or reliefs to



which the petitioner is found entitled in the facts and circumstances in this case.”

3. Learned counsel for the petitioner has stated that the authority concerned has issued a show cause notice on 03.02.2023 (Annexure-P/5) and to which the petitioner has submitted a detailed explanation on 08.02.2023 (Annexure-P/6). Learned counsel has stated that on the basis of some allegations, the license of the petitioner was suspended as per the provisions of the Fertilizer (Control) Order, 1985. It is further stated that the authorities are obligated to pass final orders but till date no final order has been passed by the authority concerned. Learned counsel has relied on the judgment of this Hon’ble Court in the case of ***Messrs S.R. Fertilizer & Chemicals Private Limited and anr. Vs. The State of Bihar and anr.*** reported in **1990 SCC Online Pat 224**. Learned counsel has therefore, prayed this Hon’ble Court to allow the present writ petition.

4. Per contra, learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the authorities duly taking into consideration the serious allegations made by the petitioner has taken a decision to suspend the license of the petitioner. Learned counsel has stated that the petitioner has not challenged the findings given in the inquiry report and moreover stated that there is a provision for filing an appeal by the petitioner if he is



aggrieved by the findings given in the inquiry report. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. In order to decide the matter in question, it is necessary to extract the relevant provision of the Fertilizer (Control) Order, 1985 more specifically Clause 31(2) which reads as under;

“Clause 31. Suspension, Cancellation or Debarment.-

..... Provided further that the controller, shall, in case of the order for suspension passed by the Notified Authority, on receipt of the detailed report and after giving the person an opportunity of being heard, pass final order either revoking the order of suspension or cancelling the certificate of registration within fifteen days from the date of receipt of the detailed report from the Notified Authority, failing which the order of interim suspension passed by the Notified Authority shall be deemed to have been revoked, without prejudice however, to further action which the controller may take against the holder of certificate under sub-clause (1).”

And also the judgement passed by this Hon'ble Court reveals that the Hon'ble Court has set aside the suspension proceedings duly taking into consideration the proviso to Clause 31(2) Fertilizer (Control) Order, 1985.

6. Having regard to the same, the order of suspension



is deemed to have been revoked as no final order has been passed by the authority concerned till date. The authorities are directed to allot the fertilizer to the petitioner as per the terms and conditions of the license to enable the petitioner to start his manufacturing process. However, it is made clear that the present order is subject to the final order that likely to be passed by the authority concerned.

7. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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