

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4371 of 2024

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Balram Kumar Son of Rama Shankar Sao, Resident of East Ashok Nagar,
Road No. 14 A, P.S.- Kankarbagh, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, District - Patna.
3. The Additional District Magistrate, Supply, District- Patna.
4. The Sub- Divisional Magistrate, Patna Sadar, District- Patna.
5. The Supply Inspector, Patna Rationing, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Gaurav
For the Respondent/s : Mr. Government Pleader (11)

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

Date : 02-09-2024

Heard the learned counsel for the parties.

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

“This Writ application is being filed on the behalf of the petitioner above named for issuance of an appropriate writ, order and direction for quashing and setting aside the order passed by the Sub Divisional Magistrate, Patna Sadar vide Memo No. 35 dated 23/01/2024 whereby and where under license of the petitioner’s PDS shop bearing License No. 358/2016 has been directed to conduct his business at old business place as earlier as mentioned in the license of the petitioner under the stipulated month on the basis of invalid ground and unreasonable law for the same and further for direction to the licensing authority to act as per the provision contained therein, and allow the petitioner to conduct his business at current business place as he is doing his business.”



3. The admitted facts are that the petitioner has been appointed as a PDS Dealer *vide* license No. 358 of 2016 for Ward No. 34, Sub-Division, Patna. That in the year 2021 when the landlord of the shop wanted to demolish the shop and construct a new building, the petitioner has applied for temporary shifting of the shop to the adjacent Ward No. 32. The authority has given the permission for temporary shifting of the shop located in Ward No. 34 to Ward No. 32 *vide* letter No. 473 dated 07.06.2022 (Annexure-P/6) with a condition that he will shift the shop back to Ward No. 34. Thereafter, the petitioner has applied for shifting of the shop permanently to Ward no. 32 and he be allowed to operate from Ward No. 32 on the ground that he is unable to procure any shop for rent for the purpose of running a PDS shop. On the said application, the remarks were called for and the authority has passed the order dated 23.01.2024 rejecting the request of the petitioner to shift the shop permanently to Ward No. 32 and giving him time of six months to shift the shop back to Ward No. 34, failing which necessary action would be taken for cancellation of the license. Aggrieved by the letter dated 23.01.2024 bearing No. 35 (Annexure-P/1) the present CWJC is filed.

4. Learned counsel for the petitioner has argued that the rejection of the application of the petitioner for permanently



shifting the shop from Ward No. 34 to Ward No. 32 is contrary to the provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016 and the same is passed without any application of mind. Learned counsel has stated that there is no complaint from any quarter with regard to the running of the PDS shop from the existing place situated at Ward No. 32. That all the beneficiaries are happy and do not have any grievance. Further, it is stated that the shop in Ward No. 32 is at a distance of only $\frac{1}{2}$ kilometer and that the rules permit the running of the shop within one kilometer from the allotted ward. Lastly, it is argued that by non consideration of the application for shifting within the stipulated time as contemplated under Clause 17 of the Bihar Targeted Public Distribution System (Control) Order, 2016, the approval is deemed to have been granted and, therefore, the impugned order is illegal, bad, arbitrary and contrary to the provisions of the Control Order, 2016. Learned counsel has therefore, prayed this Court to set aside the impugned order and permit the petitioner to run the PDS shop from the existing shop situated at Ward No. 32 for the beneficiaries of Ward No. 34.

5. *Per contra*, the learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the order of rejection of the application



of the petitioner for shifting the place of conducting the business to another ward has rightly been rejected and the same is in consonance with the provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016. That the very purpose of issuing the PDS license to Ward No. 34 would be defeated if the petitioner is permitted to run the PDS shop from Ward No. 32 which is at a distance of approximately one kilometer. That the beneficiaries of Ward No. 34 who are attached to the dealership of the petitioner have to travel a distance of one kilometer unnecessarily by incurring additional expenditure and face hardships. The authority having come to the conclusion that the beneficiaries of Ward No. 34 will face hardships, have rightly rejected the application for permanently shifting the PDS shop to Ward No. 32. Though, the petitioner has been granted temporary shifting to Ward No. 32, eleven months have lapsed and the petitioner did not take any steps to shift the shop back to Ward No. 34. Therefore, the impugned order was passed. Learned counsel has prayed for dismissing the CWJC.

6. Admittedly, in the present CWJC, the petitioner has applied for PDS dealership for the Ward No. 34 and he has been granted the Dealership. Based on in the letter for shifting the shop temporarily to Ward No. 32, permission was granted. Thereafter,



he has applied for permanently shifting the shop to Ward No. 32 which has been rejected. A perusal of the letter of rejection dated 23.01.2024 (Annexure-P/1) reveals that the authority duly taking into consideration the ground realities have rejected the request of the petitioner and gave him six months to shift the shop back to Ward No. 34, this Court does not find any perversity or infirmity in the order of rejection which warrants any interference by this Court. The entire purpose of having a PDS shop for each ward is to see that the beneficiaries of that particular ward are not put to any inconvenience or hardship for getting the food grains and other commodities, for achieving this objective only the PDS shops have to be necessarily situated in the same ward. There is no reason for the beneficiaries to travel a distance of one kilometer situated in another ward for getting the food grains. Though, the petitioner has argued that he was unable to procure any shop in Ward No. 34 as the landlords/owners are not willing to let out the premises for running of PDS shop, it is difficult to believe that there are no shops available for rent in Ward No. 34 that too in Patna, Sub-Division. In one of the letters written by the petitioner, he has stated that the rents are more than Rs. 10,000/- per month and he cannot afford to pay such heavy rents, which clearly points out to the fact that shops are available for lease but the rents are



high, the financial constraints of the petitioner cannot be a ground for granting permission for shifting to another ward. The delay caused in passing the impugned order also cannot be a ground for allowing the application as the said application was under process and, moreover, the petitioner has already been granted temporary permission to operate from Ward No. 32.

7. This Court does not find any merit in the present CWJC which warrants any interference and the same is accordingly, dismissed.

8. However, the time of six months granted by the authorities for shifting the PDS shop back to Ward No. 34 is extended by another six months. In case the petitioner does not shift the shop back to Ward No. 34 within the time stipulated granted by this Court, the authorities are free to take necessary action for cancellation of the dealership in accordance with law.

9. With the above direction, the present writ petition stands dismissed.

(A. Abhishek Reddy, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.09.2024.
Transmission Date	NA

