

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14257 of 2024

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Sanjeev Kumar Verma Son of Narayan Prasad Verma Resident of Village-
Masarhi, P.O.-Deohaliya, Masarhi, P.S.-Ramgarh, District-Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. Commissioner-Cum-Second Appellate Authority, Patna Division, Patna.
4. Collector-Cum-District Magistrate, Kaimur, Bhabhua.
5. Sub-Divisional Officer, Mohania, P.S.-Mohania, District-Kaimur.
6. Rita Kumari Wife of Vinay Shankar Singh Resident of Village-Masarhi, P.S.-Ramgarh, District-Kaimur.
7. Virendra Kumar Son of Ram Vilas Ram Resident of Village-Gogadi, Panchayat-Masarhi, Block-Ramgarh, P.S.-Ramgarh, District-Kaimur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shivam Singh, Adv.
For the Respondent/s : Mr. Government Advocate (9)

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

7 30-07-2025

Re:- I.A. No. 01 of 2025

Registry is directed to make the necessary
amendments in the prayer portion as well as the pleadings. The
amendment application is allowed.

2. Heard the learned counsel for the parties.

3. This writ petition has been filed for the following
relief(s):-

*“That the present writ application is
being filed in the nature of Certiorari for
quashing the order dated 04.04.2024 passed by*



the Divisional Commissioner, Patna in BTPDS Control Revision No. 13 of 2019 (Rita Kumari versus The State of Bihar and others) by which the matter has been remanded back to the District Magistrate to take necessary actions in terms of Bihar Targeted Public Distribution System (Control) Order, 2016; on the ground that the Commissioner has no power to remand back the matter and the Commissioner is under obligation to take all necessary steps under the circular dated 21.07.2022, thus the entire action of the Commissioner is without jurisdiction, the authority cannot re-delegate the matter to the authority, which has proceeded for public distribution system licensee;

ii. That the present writ application is being filed in the nature of Mandamus for a direction to the Commissioner, Patna Division, Patna to look into the entire appointment of the PDS Control against unreserved category and reserved category and claim afresh in accordance with the circular issued by the Government of Bihar dated 21.07.2022, and in terms of Bihar Targeted Public Distribution System (Control) Order, 2016.

iii. That the present writ application is being filed in the nature of Mandamus for direction to the respondent authority do not disturb the PDS license of the petitioner bearing PDS No. 4 of 2018 issued by the respondent Sub-Divisional Officer, Mohania till the decision is taken by the Divisional Commissioner, Patna



in accordance with Bihar Targeted Public Distribution System (Control) Order, 2016;

iv. That the present application is being filed in the nature of Mandamus for a direction to the District Magistrate, Bhabhua to not proceed with the proceeding of PDS license of the petitioner in the light of the order passed by the Commissioner, Patna Division, Patna dated 04.04.2024 till the disposal of the present writ application;”

4. Learned counsel for the petitioner states that the Divisional Commissioner has passed an impugned order dated 04.04.2024 remanding the matter to the District Magistrate for passing orders afresh and thereafter the District Magistrate has passed the order dated 29.07.2024. Learned counsel has stated that as per the circular issued by the Government of Bihar dated 21.07.2022, it is only the Divisional Commissioner who is having the necessary jurisdiction for passing orders on merits in respect of the selection matter. However, the authority without verifying the correct legal position has remanded the matter to the District Magistrate who does not have any jurisdiction to pass any order as per the circular dated 21.07.2022. Learned counsel has, therefore, assailed the order passed by the District Commissioner as well as the order passed by the District Magistrate.



5. *Per Contra*, the learned counsel appearing on behalf of the Respondent Nos. 6 and 7 has vehemently opposed the very maintainability of the present writ petition. Learned counsel for the Respondent No. 6 has stated that the writ petition itself has become infructuous as the order of the remand passed by the District Commissioner has already been implemented by District Magistrate and in case the petitioner has any grievance, his remedy is to file an appeal before the Divisional Commissioner against the order of the District Magistrate dated 29.07.2024. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition. Learned counsel appearing on behalf of the Respondent No. 7 has also adopted the arguments made by the counsel for the Respondent No. 6.

6. A perusal of the impugned order dated 04.04.2024 passed by the Divisional Commissioner reveals that the matter was remanded to the District Magistrate for passing order afresh duly taking into consideration the records, thereafter, the District magistrate has passed the order on 29.07.2024.

7. Admittedly, the State of Bihar has passed a second amendment order dated 21.07.2022 whereby the Bihar Targeted Public Distribution System (Control) was amended. That in



respect of the selection made by the District Selection Committee, the remedy available is to file an appeal before the Divisional Commissioner and as against the order of Divisional Commissioner the only remedy available to any aggrieved party is to file a writ petition before this Hon'ble Court.

8. Having regard to the provisions of Bihar Targeted Public Distribution System (Control) Second Amendment Order, 2022, the Divisional Commissioner ought not have remanded the matter to the District Magistrate. As rightly pointed by the counsel for the petitioner, once the control order specifies the authority conferring the jurisdiction in respect of a particular issue the authority cannot relegate the same to some other authority. In this particular case, the Divisional Commissioner ought to have passed the orders on merits but instead he remanded the matter back to the District Magistrate who does not have the necessary jurisdiction. Once it is held that the District Magistrate does not have any jurisdiction to pass the impugned order dated 29.07.2024 passed by the District Magistrate in Supply Appeal Case No. 14 of 2018 has to be necessarily set aside and it is non est in the eye of law.

9. Having regard to the above, the impugned order dated 04.04.2024 passed by the Divisional Commissioner is set



aside and the matter remanded back to the Divisional Commissioner for passing the order afresh. The Divisional Commissioner before passing any order is directed to put all the parties i.e. the petitioner as well as the Respondent Nos. 6 and 7 on notice and pass a reasoned order after giving an opportunity of hearing to the parties. The entire exercise shall be completed as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of the copy of this order. Any order passed shall be communicated to the parties.

10. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

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