

(2020) 02 PAT CK 0328

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 2783 Of 2019

Amarnath Prasad

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 25-02-2020

Acts Referred:

Essential Commodities Act, 1955 — Section 7

Bihar Targeted Public Distribution System (Control) Order, 2016 — Rule 30

Citation : (2020) 02 PAT CK 0328

Hon'ble Judges : Mohit Kumar Shah, J

Bench : Single Bench

Advocate : V.R.P.Singh, Lovekush Kumar, Maruth Nath Roy

Final Decision : Allowed

Judgement

1. The present writ petition has been filed for quashing the order dated 1.8.2017 passed by the Sub-Divisional Officer, Hilsa (Nalanda) whereby and whereunder the petitioner has been directed to submit a show cause reply as to why appropriate action be not taken under the provisions of the Bihar Targeted PDS (Control) Order, 2016 and as to why money be not recovered from him pertaining to the food-grains lying with him, which were entrusted to him by the Block Supply Officer, Ekangarsarai.

2. The short facts of the case are that an FIR bearing Aungari PS Case No. 37 of 2016 dated 11.6.2016 was lodged against one PDS dealer, namely, Nagmani Kumar under Section 7 of the E.C. Act, 1955 and certain quantities of food-grains were seized by the Block Supply Officer, Ekangarsarai. Thereafter, it appears that 24 quintals of wheat and 48 quintals of rice were entrusted to the petitioner herein on jimmenama on 11.6.2016 itself since the petitioner happens to be Manager of the PACS, Ekangarsarai. It is the case of the petitioner that thereafter, he had written several letters to the Block Supply Officer, Ekangarsarai dated 3.3.2017 and 20.4.2017, however, the food-grains were not lifted by the Respondents-State. In fact, thereafter, the Block Supply Officer,

Ekangarsarai by an order dated 6.6.2017 had directed the petitioner to make available the aforesaid food-grains in good condition. However, it is the case of the petitioner that thereafter, the Block Supply Officer had failed to take possession of the aforesaid food-grains from the petitioner. The petitioner is again stated to have written a letter dated 28.6.2017 to the Block Supply Officer, Ekangarsarai stating therein that the aforesaid quantities of wheat and rice were rotting and had been infested with worms, hence, immediate action be taken. Whereafter, it appears that in order to save his skin, the Block Supply Officer, Hilsa (Nalanda) has issued the impugned order dated 1.8.2017, as aforesaid.

3. The learned counsel for the petitioner has referred to Rule 30 of the Bihar Targeted PDS (Control) Order, 2016, which is reproduced hereinbelow:-

"30. Distribution of essential commodities after a license is suspended or cancelled.-The block supply officer / in charge supply officer / supply inspector shall get the food grains and other essential commodities available to the licensee at time of his license being suspended / cancelled, disbursed under his care to the concerned consumers at the prevailing rates and quantities within 30 days from the date of the receipt of such order, and the amount so collected shall be handed over to the licensee / his representative."

4. It is thus submitted by the learned counsel for the petitioner that it was incumbent upon the then Block Supply Officer, Ekangarsarai to take appropriate action for the purpose of sale of the food-grains in question within thirty days, extendable by thirty more days, nonetheless, no action was taken by the then Block Supply Officer, Ekangarsarai, hence, the order impugned dated 1.8.2017 is perverse and not sustainable in the eyes of law.

5. Per contra, the learned counsel for the Respondents-State has submitted that show cause notice is being proposed to be issued to the then Block Supply Officer, Ekangarsarai since the inquiry committee in question has found the then Block Supply Officer, Ekangarsarai to be guilty of laches and having engaged in irregularities.

6. Having regard to the facts and circumstances of the case and considering the submissions advanced by the learned counsel for the parties, this Court is of the view that the action of the then Sub-Divisional Officer, Hilsa (Nalanda), as taken vide the impugned order dated 1.8.2017 is perverse and de hors the provision of law contained in Rule 30 of the Bihar Targeted PDS (Control) Order, 2016. Moreover, the inquiry committee has found the then Block Supply Officer, Ekangarsarai to be responsible for the delay and laches, as also having committed irregularities resulting in the aforesaid food-grains being not lifted from the premises of the petitioner herein for the purposes of being sold in the market within the period stipulated by Rule 30 of the Bihar Targeted PDS (Control) Order, 2016, resulting in the food-grains having become unusable.

7. For the reasons mentioned hereinabove, the action of the Sub-Divisional Officer, Hilsa, Nalanda, taken vide the impugned order dated 1.8.2017 is held to

be illegal, perverse and contrary to Rule 30 of the Bihar Targeted PDS (Control) Order, 2016, hence, is quashed.

8. The writ petition stands allowed.