
(1988) 03 PAT CK 0012
In the Patna High Court
Case No : C.W.J.C. No. 1403 of 1988

M/s. Laxmi Store

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 29-03-1988

Acts Referred:

Citation : (1988) PLJR 720

Hon'ble Judges : Uday Sinha, J;K.B. Sinha, J

Bench : Division Bench

Advocate : G.C. Bharuka, N.P. Singh and Ramesh Kr. Agrawal, for the Appellant;
Krishna Nandan Sinha, for the Respondent

Judgement

1. Let learned counsel for the petitioner state the person with whom respondent No. 7 is represented. Heard Mr. G.C. Bharuka for the petitioner and Mr. Krishna Nandan Sinha, Junior counsel to S.C. II.

2. The petitioner is a wholesale dealer in Suflla Fertilizer produced by Rashtriya Chemicals Ltd. Its licence to deal in Fertilizer has been cancelled by the Fertilizer Controller by order dated 14.8.87 (Annexure-5). That order has been upheld by the Secretary, Agriculture Department by order dated 21.1.88 (Annexure 6). The Project Executive Officer, Itarhi took a sample of Sufia Fertilizer from a retailer Bhagwan Das Keshari, who, in turn, had purchased it from the petitioner, and sent it to Chemical Analyst. The Chemical Analyst reported that the sample was of sub-standard quality in the sense that the ratio of Nitrogen, Potash and Phosphorous was not in the ratio of 15:15:15. On the basis of the Analyst's report the Fertilizer Controller held that the Fertilizer of which the petitioner firm was the wholesale dealer had been dealing is sub-standard Fertilizer and therefore its licence to deal in Fertilizer was cancelled. The appellate authority has upheld it..... The finding recorded by the Fertilizer Controller as well as the Secretary, Agriculture Department was that the sample had been taken from the sealed bags as per procedure. If the bags were sealed, it is obvious that there was no tampering of the contents either at the retailing point or at the wholesale

point. The short fall in standard must therefore be attributed to the manufacturer, i.e., Rashtriya Chemicals Ltd, a Government of India Undertaking. We have thus failed to find any delinquency on the part of the petitioner. We fail to appreciate the reason for cancellation of the licence. In that view of the matter, Annexures 5 and 6 cannot be sustained. They quashed accordingly.