

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6640 of 2017

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1. Kanhaiya Prasad S/o Late Gopal Sah, Resident of Dhansoi, P.S.- Dhansoi,
District- Buxar.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection
Department, Bihar, Patna.
2. The Collector, Buxar.
3. The Sub-Divisional Officer, Buxar.
4. The Block Supply Inspector, Rajpur, Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari

For the State : Mr. Upendra PratapSingh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 01-08-2017

Heard learned counsel for the petitioner and learned counsel
for the State.

In the present writ petition, petitioner is challenging the
order dated 29.12.2016 passed by the Sub Divisional Officer,
Buxar by which his PDS licence being Licence No.114 of 2007
has been suspended.

Learned counsel for the petitioner submits that petitioner has
been granted licence for running PDS shop. A criminal case has
been instituted against him vide Dhansoi P.S. Case No.178 of
2016 for offence under Section 7 of the Essential Commodities
Act and that is the ground for suspension of licence. He has



further submitted that Clause 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as the Order) prescribes that in the event of lodging of criminal case if the dealer has been put behind the bar or has been declared fugitive, in such circumstances, licence shall be suspended. Clause 29 of the Order prescribes that in the event of conviction the licence will be cancelled . He has further submitted that after lodging of the criminal case petitioner has moved for anticipatory bail before District & Sessions Judge, Buxar vide A.B.P. NO. 144 of 2017 and having been granted anticipatory bail.

Learned counsel for the State submits that in view of lodging of criminal case the action cannot be faulted by suspending the licence of the petitioner.

Having considered the rival contentions of the parties and Clause 28 of the Order only stipulates the event of arrest or he has been declared absconder, the licence of dealer would be suspended mere lodging of the criminal case will not authorize to put the licence of dealer under suspension but in the present case petitioner has been anticipatory granted bail. In such circumstances, there is no event of suspending the licence of the petitioner.

In such view of the matter, putting licence of the



petitioner under suspension vide order dated 29.12.2016 is set aside.

Learned counsel for the petitioner submits that till date no order with regard to cancellation of licence has been passed.

With the aforesaid observation this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	7.8.2017
Transmission Date	NA

