

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9964 of 2017

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1. Shiv Kumar Paswan, Son of late Nago Paswan, resident of Village- Gogri, Shobhan Rai Tola, P.S. Gogri, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
4. The Collector, Khagaria.
5. The Sub-Divisional Officer-cum-Licensing Officer, Gogri, District- Khagaria.
6. The District Supply Officer, Khagaria, District- Khagaria.
7. The Block Supply Officer, Parbatta, District- Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Kumar

For the Respondent/s : Mr. SANJAY KR.GIRI-GP9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-09-2017

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

In the present case, petitioner is challenging the order dated 8.6.2017 passed by the Sub Divisional Officer, Gogri by which he has put the licence of the petitioner under suspension.

Petitioner is running a PDS shop vide Licence No. 88G of 2007. The Block Supply Officer, Gogri has seized 13 bags of rice near Samudayik Bhawan loaded on a Jugar Gadi on 25.5.2017 as they were attempting to take away the rice meant for distribution



for black marketing. From the mark of the bags it transpires that the grain packed in the bag was for distribution to the consumers of Antodaya and BPL. After seizure Gogri P.S. Case No.252 of 2017 has been lodged.

Learned counsel for the petitioner submits that neither petitioner has been declared fugitive nor he has been arrested which is condition precedent as provided under Section 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as the Order) and as such the exercise of power conferred under the aforesaid Order is per se completely illegal and not sustainable in law. Section 28 of the Order provides that mere lodging of the criminal case will not ipso facto be a ground of putting the licence under suspension but subject to the condition, either person has been arrested or has been declared fugitive, in both circumstances, on being satisfied any of the ground, authority will be at liberty to put the licence under suspension. He has further submitted that there is no such event has taken place and as such exercise of power, suspending the licence, is per se illegal.

In such view of the matter, the order dated 8.6.2017 passed by the Sub Divisional Officer, Gogri is set aside with a liberty to the competent authority to take action in accordance with law.



With the aforesaid observation and direction this writ
petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.9.2017
Transmission Date	NA

