

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4706 of 2016

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Ganesh Kumar Akela S/o Basudeo Manjhi R/o Village - Bhirauliya,
P.S. - Pipra, District - East Champaran. Petitioner.

Versus

1. The State of Bihar through the Secretary, Department of Food and Civil Supply Corporation Limited, Govt. of Bihar, Patna.
 2. The Collector, Motihari, East Champaran.
 3. The District Supply Officer, Motihari, East Champaran.
 4. The Sub-Divisional Officer, Chakia, East Champaran.
 5. The Block Supply Officer, Pipra, East Champaran. .. Respondents.
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Appearance :

For the Petitioner : Mr. Anshuman Singh, Adv.

: Mr. Rakesh Kumar, Adv.

: Mr. Ramakant Yadav, Adv.

For the Respondents: Mr. Kameshwar Kumar- GP17

: Mr. S.K. Ramayan, AC to GP-1

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-01-2017

Heard learned counsel for the petitioner and the State.

Petitioner seeks quashing of the order dated 07.01.2015
passed by the District Magistrate, East Champaran, as contained in
Annexure-1 by which his Supply Appeal No. 06 of 2013 was
dismissed.

Petitioner's licence was suspended on 25.03.2008
under the provisions contained in Clause 7(3) of the Public
Distribution System (Control) Order, 2011 on the ground that FIR
was lodged under Section 7 of the Essential Commodities Act for
certain irregularities committed by the petitioner.

It is apparent from perusal of Annexure-4 that on



certain charges of committing certain irregularities and on the basis of registration of FIR against the petitioner under Section 7 of Essential Commodities Act, the licence of the petitioner was suspended and he was further directed to show cause as to why his licence should not be cancelled. The provision of suspension of licence till the pendency of criminal matter was later on omitted from the Public Distribution System (Control) Order, 2001 by bringing an amendment which was made effective from 23.06.2011.

It is contended that by bringing amendment on 23rd June, 2011 in the control order the provision of suspension itself was revoked and suspension on any ground was not at all available thereafter, however, the issue is that the licence was suspended in the year 2008 when Clause 7(3) of the Public Distribution System (Control) Order, 2011 was in operation. The new control order namely Bihar Targeted Public Distribution (Control) Order, 2015 under Clause 28 is that if FIR is lodged against the licensee under Essential Commodities Act, sufficient and reasonable opportunity would be given within 180 days to the licensee.

In the case in hand, the licence was suspended in the year 2008 and even after lapse of eight years the criminal case has not come to its end. It is not known when the final order in the aforesaid facts and circumstances would be available. The question



would be till what time the licence should be allowed to remain suspended as under new law also it can remain suspended only till 180 days as subsequent thereof a show cause notice has to be issued and a final action would be required to be taken within 180 days. A Co-ordinate Bench of this Court, by order dated 29.10.2015 in CWJC No. 21562 of 2013, under similar circumstances, has held that it would be unreasonable to keep licence under suspension for indefinite period on the ground of pendency of criminal case. Eight years time is very long time but sad part of it is that the criminal case has admittedly not been finalized.

In such a situation, this writ stands disposed of with a direction that if the concerned criminal case is not disposed of within a period of six months from today then the petitioner's licence would automatically stand revived and, thereafter, the supplies would be resumed, however, that would be subject to the final result of the concerned criminal case.

Personal appearance of the Sub-divisional Officer, Chakia, East Champaran is dispensed with.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.05.2017
Transmission Date	NA

