

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14762 of 2015

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Kamleshwari Mandal, Son of Late Muni Lal Mandal resident of Village-
Maniarchak, P.S.- Muffasil District- Munger.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate Munger
3. The Sub Divisional Officer, Sub-Division- Sadar, District- Munger.
4. The Block Supply Officer Block- Sadar, District- Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Sushmita Mishra, Adv.
For the Respondent/s : Mr. Kumar Manish- SC21
Mr. Madan Mohan, SC 05

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 31-07-2017

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

In this case, the petitioner is challenging the order dated
26.8.2010, whereby and whereunder, the P.D.S. licence of the
petitioner has been suspended on the ground of lodging of the
criminal case, Muffasil P.S. Case No. 155 of 2010.

The petitioner having P.D.S. licence was running the shop,
First Information Report was lodged for black-marketing led to
passing of order of suspension dated 26.8.2010, wherein, it has been
specifically mentioned that on account of lodging of criminal case, the
licence of the petitioner has been put under suspension.



Learned counsel for the petitioner submits that before passing the impugned order, it was obligatory on the part of the S.D.O. to serve show-cause notice upon the petitioner and, only thereafter, he could have passed the impugned order of suspension, inasmuch as, suspension of licence cannot be treated at par with the cancellation of order and, the same, cannot be kept alive for an indefinite period.

Learned counsel for the State submits that the order is appealable, the petitioner should have approached to the appellate authority but instead of filing an appeal, he has straightway moved this Court.

Learned counsel for the petitioner, in reply, submits that Clause 15 of the Control Order, 2001 does not provide any forum for appeal in case of suspension of the licence rather the appeal is only maintainable in case of cancellation of the licence.

In the considered opinion of this Court, in view of Clause-15 of the Control Order, appeal will not be maintainable, inasmuch as, the purpose of suspension has fully been satisfied.

The trial arising from the F.I.R. has not resulted in conviction of the petitioner, in that view of the matter, the order of suspension dated 26.08.2010 passed by the Sub-Divisional Officer, Sadar, Munger is set aside but, it will be always subject to outcome of



the criminal case which has been lodged against the petitioner.

With the aforementioned observation, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
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