

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20049 of 2016

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Rajdeo Paswan, aged about 45 years, Son of Late Fakira Paswan, resident of Village- Manpura, Police Station- Vaishali, District- Vaishali.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The District Magistrate, Vaishali, Hajipur.
4. The Senior Deputy Collector cum Officer on Special Duty, Vaishali.
5. The Sub Divisional Officer, Hajipur.
6. The Block Supply Officer, Vaishali.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha

For the Respondent/s : Mr. S.Raza Ahmad, A.A.G.-5

Mr. Alok Ranjan, A.C. to A.A.G.-5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-10-2017

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

2. In this case, the petitioner is challenging the letter no.603 dated 17.06.2016, by which the authority, in exercise of power, has put the licence of the petitioner under suspension.

3. It appears that the petitioner is running the P.D.S. shop, was found to have committed illegality in distribution of the food-



grains, as has been claimed to have been realizing the excess rate what has been fixed by the Government as well as giving less quantity of commodities, led to lodging of criminal case, which was registered as F.I.R. No.127 of 2016, whereafter, the Sub-Divisional Officer, Hajipur, has passed the order of suspension of licence. After lodging of the criminal case the petitioner surrendered and was granted bail.

4. Rule-28 of the Bihar Targeted P.D.S. Control Order, 2016, prescribes that competent authority will have jurisdiction to put the licence on lodging of criminal case subject to satisfying the condition either he has been sent to jail or he has gone fugitive. In paragraph no.15 of the writ petition, it has categorically been stated that the petitioner surrendered and was granted bail, which has not been disputed by the State. The State later on, has filed counter affidavit, wherein the plea has been taken the licence of the petitioner has been cancelled vide letter no.1156 dated 02.06.2016, which is factually incorrect on the premise that the power to cancel the licence lies with the Sub-Divisional Officer, the letter which has been issued by the Senior Additional Collector, Vaishali, to the District Magistrate, Vaishali, wherein he has recommended for cancellation of the P.D.S. licence of the petitioner. The State has not



brought any document or order, which reflects that the licence of the petitioner has been cancelled.

5. Rule-28 of the Bihar Targeted P.D.S. Control Order, 2016, is by and large prescribes that the authority must take a final action within 180 days. In this case, more than 180 days has already elapsed for the purposes of putting the licence under suspension has already served. The condition prescribed in Rule-28 is not fulfilled as more than one year has already elapsed, in such view of the matter, the order of suspension of licence dated 17.06.2016 is set aside. However, liberty is given to the respondent authorities they may take action in accordance with law.

6. Accordingly, this writ petition is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	03.11.2017
Transmission Date	N/A.

