

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4761 of 2016

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Madan Choudhary, Son of Late Radhe Choudhary, residents of Village- Salempur Titu (Ward No. 9), Police Station- Teghra, District- Begusarai.

.... Petitioner

Versus

1. The State of Bihar, through the District Magistrate, Begusarai, Bihar.
2. The District Magistrate, Begusarai, Bihar
3. The Sub-Divisional Magistrate, Teghra Begusarai, Bihar
4. The District Supply Officer, Begusarai, Bihar.
5. The Circle Officer-cum-Block Supply Officer, Teghra, Begusarai, Bihar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ajay Kumar, Advocate
For the State : Mr. Sajid Salim Khan, S.C. 25

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
Date: 04-02-2017

Heard parties.

Petitioner assails Annexure 10 which is an order dated 30.01.2016 passed by the Sub-Divisional Officer-cum-Licensing Authority, Teghra, Begusarai by which his PDS Licence No.02/98 has been cancelled.

Petitioner's grievance is that the licence has been cancelled without issuing a show cause notice and without granting any reasonable opportunity to state his case against the proposed cancellation of licence.

Counter affidavit has been filed on behalf of the State respondents stating that F.I.R. was lodged against the petitioner under



the provisions of Essential Commodities Act in view of the direction of the District Magistrate, Begusarai contained in Annexure F appended with the counter affidavit, the licence has been cancelled.

In my view, the action is wholly arbitrary. Impugned order suffers from erroneous exercise of jurisdiction as Clause 27(ii) of the Bihar Targeted Public Distribution System (Control) Order, 2016 categorically lays down that no order of cancellation of a licence shall be made until the licensee has been given sufficient opportunity to state his case against the proposal of cancellation of his licence. Clause 28 contemplates that after F.I.R. is lodged against a licensee and he is in custody, his license would be suspended and after serving show cause notice in accordance with the Civil Procedure Code and giving him sufficient opportunity to present his case, a lawful action should be taken within 180 days.

None of the aforesaid provisions has been followed by the Licensing Authority as the licence has been cancelled without issuing any show cause notice. There is no suspension after lodgment of F.I.R. rather on the direction of the District Magistrate for suspending the licence, the same appears to have been cancelled. Another infirmity in the order is that the Licensing Authority has to apply his own mind being the creature of the statute and does not have to take command of his superior for passing any order specially when



the District Magistrate happens to be the appellate authority in terms of Clause 32 of the Control Order. It is also submitted by the petitioner that the police has already submitted final form stating that lodgment of case was mistake of fact.

Accordingly, the impugned order is quashed and set aside. The licence of the petitioner is restored. If the petitioner is already on bail then supplies to the petitioner should be immediately resumed.

Accordingly, this writ application stands allowed.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
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