

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16733 of 2016

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Radha Krishna son of Sri Ramakant Sharma @ Kamta Sharma, Resident of
Village- Daulatpur Village Panchayat- Rupaspur, Police Station- Alipur,
District- Gaya.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The Sub- Divisional Officer, Tikari, District- Gaya.
3. The Block Supply Officer, Tikari, District- Gaya.
4. The Block Development Officer, Tikari, District- Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate
For the Respondents : Mr. Vikas Ratan Bharti, AC to -Gp9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 07-03-2017 Heard the parties.

In this case the petitioner has challenged the order dated 31.08.2016 passed in Memo no. 612 dated 31.08.2016 by the Sub Divisional Officer, Tekari, Gaya.

The short question raised in the present case is that about suspension of the licence by the licensing authority on account of lodging a criminal case is not proper exercise of the power. As per the plea of the petitioner, under Clause 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016, licence of a fair price dealer can be suspended only on two circumstances, if the licence holder is either fugitive or he is behind the bar. In the present case the petitioner is a licence



holder of a PDS shop vide licence no. 01/15 for selling goods under the Public Distribution System. The Block Supply Officer after enquiry has submitted enquiry report to the Sub Divisional Officer, Tekari, and on the basis of enquiry report he lodged a criminal case vide Memo no. 612 dated 31.08.2016 which has been registered as Alipur P.S Case no. 59 of 2016. On the basis of lodging of the criminal case a proceeding was initiated by the Sub Divisional Officer and he has suspended the licence merely on the ground of lodging a criminal case. Clause 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016 deals with the situation with respect to lodging of criminal case and mere lodging of F.I.R. cannot be a cause for suspension of licence in absence of either of the two aforementioned conditions would be satisfied. The lodging of criminal case may lead to putting the licence under suspension if holder of a PDS dealer is behind bar or he is fugitive. Only on satisfaction of any of the conditions would lead to suspension of licence. In the present case, neither of the two is attracted.

In such circumstances, the order passed by the Sub Divisional Officer, Tekari, Gaya, is not sustainable in law and accordingly, the order dated 31.08.2016 vide memo no. 612 and consequential order dated 05.09.2016 contained in memo no. 1937



are hereby quashed.

Accordingly, this application is allowed.

However, the licensing authority is directed to accept the licence fee in terms of the Rule.

(Shivaji Pandey, J)

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