

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13606 of 2017

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Brijnandan Sharma, son of Late Ramkrit Singh, Resident of Village - Mahmadpur, Village Panchayat - Khanetu, Police Station - Tikari (Panchanpur O.P.), District Gaya.

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-02-2018

Heard learned counsel for the petitioner as well as learned counsel for the respondents.

2. The present writ petition has been filed for quashing the order dated 13.06.2017 contained in Memo No. 388 passed by learned Sub Divisional Officer, Tikari (Gaya) whereby only relying upon the enquiry report of the Block Supply Officer, he has passed an order to lodge F.I.R. under section 7 of the E.C. Act and consequential order dated 15.06.2017 contained in memo no. 391 whereby the P.D.S. licence No. 05/91 now 79/2016 of the petitioner granted under Bihar Targeted P.D.S. (Control) Order, 2016 has been suspended.

3. Learned counsel for the petitioner invites attention to the



impugned order dated 15.06.2017 according to which the petitioner's PDS license has been suspended on the ground that an F.I.R. bearing Tikari (Panchanpur O.P.) P.S. Case No. 249 of 2017 has been instituted against him under Section 7 of the Essential Commodities Act. It is submitted that such action is wholly contrary to Rule 28 of the Bihar Targeted PDS (Control) Order, 2016, which provision reads as follows:

"28. Actions to be taken against a licensee after a F.I.R. lodged.- If an F.I.R. is lodged against a licensee under the Essential Commodities Act, 1955 or for any other criminal cases and he is sent to jail or he goes fugitive, his license shall be suspended by the licensing authority with immediate effect, and after serving show cause notice upon him in accordance with Civil Procedure Code and giving him sufficient opportunity to present his case, a lawful action shall be taken within 180 days, as far as possible."

4. It is pointed out that even though the order of suspension has been passed as far back as on 15.06.2017, no show cause notice thereafter for taking any lawful action against the petitioner has been served even after lapse of more than 180 days, as contemplated under Rule 28 aforesaid.

5. Learned counsel for the respondents appears and has been heard.

6. In the above matter, the writ petition stands allowed and the impugned order of suspension dated 15.06.2017 (Annexure-1) is hereby quashed.



7. Supplies to the petitioner shall be restored without delay.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	26.02.2018
Transmission Date	N.A.

