

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6689 of 2018

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Diwakar Mishra, Son of Late Umesh Mishra, Resident of Village-Barnaiya, Post Office-Balathari, Police Station-Kuchaikote, District-Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department Govt. of Bihar, Patna.
2. The Collector, Gopalganj.
3. The Sub-Divisional Officer, Gopalganj
4. The Block Marketing Officer, Kuchaikote, Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subhash Kumar, Adv

For the Respondent/s : Mr. S.RAZA AHMAD -AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 13-04-2018

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

2. The present writ petition has been filed for quashing the order of suspension of the petitioner's PDS licence passed by the Sub-divisional Officer, Gopalganj vide Memo No. 2669 dated 28.08.2017 as also the appellate order dated 23.01.2018 in Supply Case No. 15 of 2017 passed by the District Magistrate, Gopalganj; and for connected reliefs.

3. Learned counsel for the petitioner invites attention to the impugned order dated 28.08.2017 according to which the petitioner's PDS licence has been suspended on the ground that an FIR 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 further pointed out that even though the order of suspension has been passed as far back as on 28.08.2017, no show cause notice thereafter for taking any lawful action against him 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. No counter affidavit has been filed so far controverting the stand of the petitioner.

6. In the above matter, the writ petition stands allowed and the impugned order of suspension dated 28.08.2017 (Annexure-2) as also the appellate order dated 23.01.2018 (Annexure-3) is hereby quashed. Supplies to the petitioner shall be restored without delay.

7. It is made clear that in case the stand of the petitioner that



no reasonable opportunity has been granted prior to suspension of his
licence is found to be incorrect, the respondents shall be at liberty to
approach this Court for recall of this judgment.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
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