

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10175 of 2018

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Ramautar Prasad alias Ramautar Manjhi, son of Late Kundan Prasad resident
of village Usari P.S. Baikunthpur District Gopalganj

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supplies,
Govt. of Bihar, Patna
2. The District Magistrate cum Collector, Gopalganj
3. The District Supply Officer, Gopalganj
4. The Sub Divisional Officer, Gopalganj
5. The Block Supply Officer, Baikunthpur, Gopalganj

.... Respondents

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Appearance :

For the Petitioner : Mr. Arun Kumar Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 25-06-2018

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

2. The present writ application has been filed for the
following reliefs --

“(i) To issue an appropriate writ/order direction in
the nature of certiorari for quashing the order dated
29.12.17 passed by Sub-Divisional Officer Gopalganj;
(ii) To issue an appropriate writ/order/direction in
the nature of Mandamus Commanding the
respondents to restore/issue the licence of Public
Distribution System/Fair Price Shop at Usari
Panchayat in the District of Gopalganj to the
petitioner forthwith.



(iii) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.”

3. Learned counsel for the petitioner invites attention to the impugned order dated 29.12.2017 according to which the petitioner’s PDS license has been suspended on the ground that an F.I.R. 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. A specific stand has been taken in paragraph 10 of the writ petition to the effect that the petitioner was granted anticipatory bail by order dated 27.04.2018 passed by a coordinate Bench of this Court in Cr. Misc. No. 23033 of 2018 in connection with Baikunthpur P.S. Case No. 316 of 2017. It is therefore submitted that the petitioner has neither gone to jail nor is fugitive and as such the pre-condition for



suspension of his license under Rule 28 of the Bihar Targeted PDS (Control) Order, 2016 is not fulfilled. It is further pointed out that even though the order of suspension has been passed as far back as on 29.12.2017, 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 till date.

6. In the above matter, the writ petition stands allowed and the impugned order of suspension order contained memo No. 3788 dated 29.12.2017 passed by the Sub-Divisional Officer, Gopalganj (Annexure-2) 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	01.07.2018
Transmission Date	N.A.

