

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13372 of 2017

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Ganesh Prasad Gupta, Son of Late Satya Narayan Prasad Gupta, R/o Village Sahar, P.S. Sahar, District- Bhojpur.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Food and Civil Supply Department, Government of Bihar, Old Secretariat, Patna.
3. The District Magistrate, Bhojpur, Ara.
4. Block Supply Officer, Sahar, Ara.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Mishra,
Mr. Ujjwal Kumar,
Mr. Ajay Kumar, Advocates

For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 25-01-2018

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 No. 12/2016 passed by the Subs-divisional Officer, Sadar, Ara, Bhojpur, vide Memo No. 2000 dated 27.08.2016; and for connected reliefs.

3. Learned counsel for the petitioner invites attention to the impugned order dated 27.08.2016 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 27.08.2016, 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 27.08.2016 (Annexure-1) 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
CAV DATE	NA
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