

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.903 of 2017

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Ambara Tej Singh Primary Agriculture Cooperative Society, Block Saraiya,
District - Muzaffarpur through its Secretary Amit Kumar Son of Sri Umakant
Pandey resident of Vill. - Raghunathpur, Police Station - Saraiya, District -
Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The Sub Divisional Officer, Muzaffarpur (West).
5. The Block Supply Officer, Saraiya, Muzaffarpur (West).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, Advocate
For the Respondent/s : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT

Date : 18-08-2018

Heard learned counsel for the petitioner and the learned
counsel appearing on behalf of the State.

2. The petitioner challenges the order dated
30.09.2016(Annexure-3), passed by the Respondent No. 4, the
Licensing Authority i.e. Sub-Divisional Officer, Muzaffarpur
(West) whereby his license has been suspended under the Bihar
Targeted Public Distribution System (Control) Order, 2016 on the
ground that the petitioner-PACS has indulged in black-marketing.
Simultaneously the Block Supply Officer, Saraiya was directed to
lodge an F.I.R. against the petitioner.



3. It has been submitted by the learned counsel for the petitioner that under Clause-28 of the said Control Order, 2016 the license of a PDS dealer can be suspended only on account of an F.I.R. being lodged and he is sent to jail or turned fugitive, but in the present case, without F.I.R. having been lodged the PDS license being Licence No. 23040166/11 has been suspended in anticipation of an F.I.R. to be lodged against the petitioner. He further submits that no action has been taken thereafter by the respondent authorities, although, a lawful action as prescribed under Section 28 of the Control Order, 2016 should have been taken within 180 days, but now about two years have passed and the license of the petitioner is in suspended animation. In this connection, he refers to order dated 07.03.2017, passed by this Court in CWJC No. 16733 of 2016 contending therein that on mere lodging of an F.I.R. also the license of the P.D.S dealer would not be suspended if the other two conditions of being lodged in jail or turning fugitive is not satisfied. Here, in the present case, neither the F.I.R. has been lodged nor the petitioner has been lodged in jail or turned fugitive before the order of suspension. He urges that even 180 days have already lapsed and now, it is nearly two years of the suspension order having been issued.



4. Under such circumstances, the order passed by the Respondent No. 4, the Sub-Divisional Officer, Muzaffarpur (West) dated 30.09.2016, as contained in Annexure-3 is not sustainable in law and is hereby quashed. The supplies to the petitioner be restored forthwith. However, the licensing authority is at liberty to take any action but in accordance with law.

5. Accordingly, the writ application is allowed.

(Nilu Agrawal, J)

Rajesh/Pragya

AFR/NAFR	NAFR
CAV DATE	NA
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