

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3974 of 2017

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Sanjay Kumar, Son of Late Yogendra Prasad, resident of Village- Manik Chowk (Uttari), Police Station- Runni Saidpur in the district of Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Supply Department, Government of Bihar, Patna.
2. The Principal Secretary, Food and Supply Department, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Sitamarhi.
4. The Sub-Divisional Officer, Sitamarhi Sadar in the District of Sitamarhi.
5. The Block Development Officer-cum-Block Marketing Officer, Runni Saidpur in the district of Sitamarhi.
6. The Circle Officer-cum-Block Marketing Officer, Runni Saidpur in the district of Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sunil Kumar, Advocate.

For the Respondents : Mr. Sanjay kr. Giri

Mr. Nikhil Kumar Agarwal

Ms. Deepika Sharma, Advocates.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 24-01-2018

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

2. The present writ petition has been filed for the
following reliefs:

“(i) For quashing the order contained in Memo NO. 413 dated 21.10.2016 issued under the signature of respondent no. 4 by which the PDS license of the petitioner has been suspended.

(ii) Also to direct the respondents to revoke the suspension of PDS license of the petitioner and restore the PDS shop of the petitioner.

(iii) Also for any other relief/reliefs for which the petitioner is found to be entitled in the eye of law.”

3. Learned counsel for the petitioner invites attention



to the impugned order dated 21.10.2016 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 para-7 of the writ petition to the effect that the petitioner was granted anticipatory bail by order dated 06.02.2017 passed by the learned Sessions Judge, Sitamarhi in A.B.P. No. 150 of 2017 in connection with Runni Saidpur P.S. Case No. 422 of 2016. 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 21.10.2016, 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 states on instruction that the statement made in the counter affidavit to the effect that the petitioner’s license was cancelled, has been inadvertently made and as a matter of fact the same has merely been suspended. The petitioner’s stand that no show cause notice has been issued nor any lawful action taken pursuant to suspension, has not been controverted by the respondents.

6. In the above matter, the writ petition stands allowed and the impugned order of suspension dated 21.10.2016 (Annexure-1) is hereby quashed.

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

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.01.2018
Transmission Date	N.A.

