

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2633 of 2016

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Baidyanath Sahu @ Baidyanath Sah S/o late Yugal Sahu R/o Village- Lakhmina
P.s Kusheshwar Asthan District Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Darbhanga.
2. Sub-Divisional Magistrate, Biroul, District Darbhanga
3. Block Supply Officer, Kusheswar Ashtan West, District Darbhanga.
4. Block Development Officer, Kusheshwar Asthan, District Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Advocate
Mr. D.N.Tiwary, Adv
Mr. Om Prakash Singh, Adv

For the Respondent/s : Mr. Ashok Kumar Dubey, AC to AAG 11

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-04-2018

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

2. The present writ petition has been filed for quashing the
order contained in Memo No. 1543 dated 23.09.2008 issued by the Sub
Divisional Officer, Biroul, District Darbhanga (respondent no. 2),
whereby and whereunder the petitioner's PDS licence no. 94 of 2001
has been suspended; and for a direction to the respondents to restore
the license of the Public Distribution System of the petitioner with
immediate effect.

3. Learned counsel for the petitioner invites attention to the
impugned order dated 23.09.2008 according to which the petitioner's
PDS license has been suspended on the ground that an F.I.R. bearing
Kusheswar Asthan P.S. Case No. 124/2008 has been instituted against
him under Section 7 of the Essential Commodities Act. It is submitted
that the conditions for suspension of the licence in terms of Clause 7(v)



of the Public Distribution (Control) Order, 2007, are not satisfied.

4. Learned counsel for the respondents relies on the counter affidavit to oppose the writ petition submitting that an FIR has been instituted against the petitioner pursuant to which the licence of the PDS shop of the petitioner has been suspended as he was found to be indulging in black marketing of PDS kerosene oil.

5. It is pointed out that even though the order of suspension has been passed as far back as on 23.09.2008, no show cause notice thereafter for taking any lawful action against the petitioner has been served within a period of 90 days thereafter, as contemplated under Rule 7(v) aforesaid.

6. The impugned order dated 23.09.2008 (Annexure-3) is hereby quashed and the PDS licence of the petitioner stands restored. Supplies to the petitioner shall be resumed without delay.

7. The writ petition stands allowed as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.04.2018
Transmission Date	NA

