

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7666 of 2018

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Ram Shankar Rai, Son of Nuri Rai @ Luri Rai, Resident of Village- Usari, P.S.- K. Asthan, District- Darbhanga, Bihar.

.... Petitioner

Versus

1. The State of Bihar represented through the Secretary, Food and Consumer Protection, Government of Bihar, Old Secretariat, P.O. Sachivalaya, Patna - 800001.
2. The District Magistrate, Darbhanga.
3. The Sub-Divisional Officer, Biraul, Darbhanga.
4. The Block Development Officer, K. Asthan Purvi, Darbhanga.
5. The Block Supply Officer, K. Asthan Purvi, Darbhanga.
6. The Circle Officer, K. Asthan Purvi, Darbhanga.

.... Respondents

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Appearance :

For the Petitioner : Mr. Kumar Ravish,
Mr. Anant Kumar,
Mr. Kashyap Kaushal, Advocates
For the Respondents : Mr. S.Raza Ahmad, AAG-5
Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-05-2018

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

2. This writ application has been filled for the following
reliefs:-

“(i) To quash and set aside Annexure-P/2 i.e. the order dated 30.12.2017 contained in Memo No. 1145 passed by the Sub-Divisional Officer, Biraul, whereby and whereunder the Public Distribution Shop (P.D.S.) license of the petitioner bearing license No. 37/2016 has been suspended with immediate effect only for the reason that the petitioner has been arraigned as accused in the K. Asthan P.S. Case No. 242/2017 dated



28.12.2017 instituted under Section 7 of the Essential Commodity Act, 1955;

(ii) To restore the P.D.S. license of the petitioner and permit usual operation of the shop;

(iii) Any other relief or reliefs which the petitioner may be found entitled to in the facts and circumstances of the case."

3. Learned counsel for the petitioner invites attention to the impugned order dated 30.12.2017 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 15 of the writ petition to the effect that the petitioner was granted



anticipatory bail by order dated 05.04.2018 passed by a coordinate Bench of this Court in Cr. Misc. No. 16483 of 2018 in connection with K. Asthan P.S. Case No. 242 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 30.12.2017, 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 dated 30.12.2017 (Annexure-P/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	21.05.2018
Transmission Date	N.A.

