

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2404 of 2018

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Basir Ahmad @ Bashir Ahmad S/o Anisur Rahman @ Anishul Rahman
Resident of Village - Chuna Gali, Islamia Mohalla, Nagar Parishad, Ward No. -
12, P.S. & District - Gopalganj.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection Department, Bihar, Patna.
2. The Collector, Gopalganj.
3. The Sub Divisional Officer, Gopalganj.
4. The Block Supply Officer, Gopalganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. D.N. Tewari, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-04-2018

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

2. The present writ petition has been filed for quashing of
the impugned order dated 31.08.2017 passed by learned Sub-
Divisional Officer, Gopalganj by which the PDS license of the petitioner
being license no. 17/2016 has been suspended in contravention of
Clause 28 of Targeted Public Distribution System (Control) Order,
2016 and for a direction to the respondents to restore the license and
supply of the petitioner.

3. Learned counsel for the petitioner invites attention to
the impugned order dated 31.08.2017 according to which the



petitioner's PDS license has been suspended on the ground that an F.I.R. bearing Gopalganj Town P.S. Case no. 364 of 2017 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 6 of the writ petition to the effect that the petitioner was granted anticipatory bail by order dated 02.11.2017 passed by a coordinate Bench of this Court in Cr. Misc. No. 46250 of 2017 in connection with Gopalganj Town P.S. Case no. 364 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 31.08.2017, 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 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 31.08.2017 (Annexure-3) 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.
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