

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6328 of 2018

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Md. Shahabuddin, son of Sher Mohammad, resident of village Kathotiya, P.S.
Barari, District Katihar

.... Petitioner

Versus

1. The State of Bihar through the principal Secretary, Food and Consumer Department Bihar, Patna.
2. The Collector-cum-District Magistrate, Katihar.
3. The District Supply Officer, Katihar.
4. The Sub-Divisional Officer, Katihar
5. The Block Supply Officer, Barari, District Katihar

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-05-2018

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

2. The present writ petition has been filed for quashing the order contained in Memo No. 135 dated 27.02.2016 issued by the Sub-Divisional Officer Katihar whereby the PDS licence of the petitioner bearing licence No. 37/2011 has been cancelled; for further direction to the respondents to restore the supply of articles to the petitioner and for connected reliefs.

3. Learned counsel for the petitioner invites attention to the impugned order dated 27.02.2016 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 web copy of the order of this Court dated 02.08.2018 passed in Cr. Misc. No. 16573 of 2016 has been furnished in order to show that the petitioner was granted anticipatory bail in connection with Barari P.S. Case No. 53 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 27.02.2016, 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 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 27.02.2016 (Annexure-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	16.05.2018
Transmission Date	N.A.

