

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15208 of 2018

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Yugesh Prasad Gupta @ Yogesh Prasad Gupta Son of Lakshmi Sao Resident
of Village - Ahiapur, Police Station - Haspura, Daudnagar, District –
Aurangabad ... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food & Civil Supply Dept.
Bihar, Patna.
2. The District Magistrate, Aurangabad.
3. The Sub-Divisional Officer, Daudnagar.
4. The Block Development Officer, Haspura.
5. The Block Supply Officer, Haspura.
6. District Supply Officer, Aurangabad ... Respondents

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Appearance :

For the Petitioner	:	Mr. N.K. Agarwal, Sr. Adv. with M/s Sanjay Kumar, Ravi Bhardwaj & Preety Kunwar, Advs.
For the Respondents	:	Mr. Arvind Ujjwal, SC IV with Mr. U.P. Singh, AC to SC IV

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 18-08-2018 Heard Mr. N.K. Agarwal, learned Senior Counsel for
the petitioner and the learned counsel appearing for the State.

The petitioner challenges the order of Public Distribution System Licence No. 4/H/85 which has been suspended by Memo No. 21, dated 23.01.2017 (Annexure 1) by the Licensing Authority, Subdivisional Officer, Daudnagar, Aurangabad. Subsequently, his Public Distribution System licence has been cancelled by Memo No. 61, dated 10.06.2017 (Annexure 6) by the Licensing Authority, Subdivisional Officer, Daudnagar, Aurangabad. His appeal being P.D.S. Appeal Case No. 27 of 2017 has affirmed the cancellation order vide order, dated 07.07.2018, as contained in Annexure 7.

Petitioner challenges the order of suspension on the



ground of merely lodging of first information report being Haspura P.S. Case No. 10 of 2017, dated 13.01.2017, under Section 7 of the Essential Commodities Act would not result in suspension of his licence in view of Clause 28 of the Bihar Targeted Public Distribution System Control Order, 2016, wherein the suspension of licence could be done on lodging of first information report and if the petitioner is lodged in jail or turn fugitive. He submits that the petitioner is already on bail granted by this Court in Cr. Misc. No. 8975 of 2016, dated 15.03.2017. He submits that since the other two postulates of being in jail or turning fugitive has not been satisfied, the suspension of licence merely on the ground of lodging of first information report is not sustainable in law as held by this Court in the order, dated 07.03.2017, passed in C.W.J.C. No. 16733 of 2016 (Radhe Krishna Vrs. the State of Bihar & Ors.). He, further, submits that if the suspension order is bad in law the cancellation order and the appellate order also gets vitiated as when the substratum suffers infirmity, the super structure would not cure such infirmity.

Learned counsel for the State appears and is heard.

Under the facts and circumstances, the order, dated 23.01.2017, passed by the Licensing Authority suspending the



licence of the petitioner, as contained in Annexure 1, and the order, dated 10.06.2017, both passed by the Licensing Authority, i.e., the Subdivisional Officer, Daudnagar, Aurangabad, and the appellate order, dated 07.07.2018 passed by the District Collector, Aurangabad, in P.D.S. Appeal Case No. 27 of 2017, are **quashed**. Supplies to be restored to the petitioner forthwith. However, the respondent authorities are at liberty to take action against the petitioner in accordance with law.

Writ application is **allowed**, in view of the above observations and directions.

(Nilu Agrawal, J)

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