

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21294 of 2018

=====

Akhilesh Kumar son of Madam Dhari Singh, Resident of Village-Bishambharpur,
P.S.-Bikaram, District-Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Sub Divisional Officer, Paliganj, Patna.
4. The Block Supply Officer, Bikram, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Dineshwar Mishra
For the Respondent/s	:	Mr. Arvind Ujjwal- Sc4

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 04-12-2018

Heard the parties.

The present writ petition has been filed for quashing the order dated 09.06.2018 passed by Sub Divisional Officer, Paliganj, Patna whereby and whereunder the licence of the PDS shop of the petitioner has been suspended without any show cause notice on the ground that an FIR has been lodged against the petitioner.

The learned counsel for the petitioner has referred to Rule 28 of the Bihar Targetted P.D.S. (Control) Order, 2016 which reads as follows :-

“28. Actions to be taken against a licensee after a FIR lodged :- If an FIR 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 licensign 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.”

It has been submitted by learned counsel for the petitioner that neither the petitioner has been sent to jail nor the petitioner is fugitive, hence the order of suspension is bad in law. In order to buttress the stand of the petitioner, learned counsel for the petitioner has produced an order dated 05.10.2018 passed in Cr. Misc. No.61234 of 2018 whereby and whereunder the petitioner has been granted anticipatory bail.

Having considered the facts and circumstances of the cases as also the provisions of law in this regard, this Court is of the view that the impugned order dated 09.06.2018 passed by the Sub Divisional Officer, Paliganjl Patna is de hors the provisions of law, particularly Clause 28 of the Bihar Targetted P.D.S. (Control) Order, 2016, hence is unsustainable in the eyes of law.

For the reasons mentioned hereinabove, the writ petition is allowed and the order dated 09.06.2018 passed by Sub Divisional Officer, Paliganj, Patna is quashed.

(Mohit Kumar Shah, J)

sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.12.2018
Transmission Date	NA

