

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21367 of 2018

Arvind Kumar

... .. Petitioner/s

Versus

The State Of Bihar & Ors

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dineshwar Mishra

For the Respondent/s : Mr. S. Raza Ahmad- Aag5

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 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, it is further submitted by the learned counsel for the petitioner that in paragraph No.2 of the writ petition, a statement has been made that the petitioner has already been granted anticipatory bail by this Court by an order dated 25.08.2018 passed in Cr. Misc. No.36621 of 2018.

Having considered the facts and circumstances of the cases as also the aforesaid 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, this writ petition is allowed and the order dated 09.06.2018 passed by Sub Divisional Officer, paliganj, Patna is quashed.

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(Mohit Kumar Shah, J)

