

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.20473 of 2014**

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Ram Udar Singh son of Late Jamadar Singh Resident of village - Parsa Police Station - Pakridayal, District - East Champaran at Motihari.

.... .... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary Food and Supply Department, Government of Bihar, Patna.
2. The District Selection Committee, East Champaran, Motihari through its Chairman, the District Magistrate, East Champaran, Motihari.
3. The District Magistrate, East Champaran at Motihari.
4. The District Supply Officer, East Champaran, Motihari.
5. The Sub-Divisional Officer, Pakridayal, East Champaran.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. V.R.P, Singh, Adv  
Mr. Rajan, Adv

For the Respondent/s : Mr. Nishant Kumar Jha, AC to SC 28

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**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**

**ORAL JUDGMENT**

**Date: 10-10-2018**

The present writ petition has been filed for quashing the order dated 14.05.2013 (Annexure-4) passed by the Sub-Divisional Officer, Pakridayal in Case No. 08 of 2011 directing to await the decision in Pakridayal P.S. Case No. 29/2011 in the matter of revocation of suspension of the licence of the petitioner for running the Fair Price Shop.

2. Learned counsel for the petitioner raises a two fold submission to assail the impugned order, namely –

(a) Rule 34(ii) of the Bihar Targeted PDS (Control) Order, 2016

(for short 'the Control Order, 2016') contemplates that



anything done or any action taken under the earlier notifications would be deemed to be done or taken under the Control Order, 2016 as if it had come into force for the time being, but however, there is no provision for suspension under the Control Order, 2016.

(b) Even otherwise, Rule 7(v) of the PDS (Control) Order, 2001 (for short 'the Control Order, 2001') provided for suspension of licence for a maximum period of 90 days only.

3. It is, therefore, submitted that the order suspending the petitioner's licence was fit to be revoked, but the same has been arbitrarily refused, instead to be done directing to await the result of the criminal proceeding in Pakridayal P.S. Case No. 29/2011.

4. Learned counsel for the respondents appears and has been heard.

5. Having heard the parties and on consideration of the materials on record, this Court finds the writ petition to be devoid of merit. For the sake of convenience the relevant provisions may be reproduced hereunder —

Control Order, 2001

*7 (iii): If F.I.R. is lodged against FPS dealers for contravention of an order issued under Essential Commodities Act, 1955, their licence shall be suspended till the matter is pending before the Court of Law.*

*(v) Suspension of licence shall be for a maximum period of ninety days. In the meantime records relating to suspension of licence should be sent to the District Level Selection Committee within a fortnight from the date of suspension of licence. The Selection Committee after due enquiry shall recommend for*



*revocation of suspension the Licensing Authority shall act accordingly.*

*Control Order, 2016*

*34(ii): Notwithstanding such appeal, anything done or any action taken under the said notifications shall be deemed to be done or taken under this Order as if it was come into force for the time being.*

*(iii): All the cases against fair price shop's licensees pending at the commencement of this Order shall be dealt with in accordance with the provisions of the orders under which these cases were initiated.*

6. As regards the first submission of the petitioner, the same is not tenable in view of Rule 34(iii) of the Control Order, 2016, which clearly states that all cases against the Fair Price Licensees pending at the commencement of the said order were required to be dealt with in accordance with the provisions of the Orders under which such cases are initiated. It is not in dispute that the order of suspension has been passed against the petitioner prior to the Control Order, 2016 coming into effect. Accordingly, Rule 34(iii) applies in the present case and any benefit sought to be read into Rule 34(ii) is not available to the petitioner, which rather saves and protects any action taken by the authorities under the erstwhile notifications. The case of the petitioner would thus have to be governed by the provisions of the Control Order, 2001 and not by the Control Order, 2016.

7. With regard to the other submission of the petitioner, the same is also not tenable in view of the specific provisions of Rule 7(iii) of the Control Order, 2001 which states that in a situation where an FIR has been lodged



against the PDS dealer for contravention of an order under the E.C. Act, the licence shall remain suspended for the duration for which the matter remains pending before the learned Court below. Admittedly, a criminal case against the petitioner in Pakridayal P.S. Case No. 29/2011 initiated for violation of the provisions of the E.C. Act remained pending at the time of passing of the impugned order. It is well settled that a specific provision must prevail over a general provision and as such Rule 7(iii) of the Control Order, 2001 would have to be given priority and precedence over Rule 7(v) of the Control Order, 2001 the latter provision being general to the effect that the life of a suspension order would be limited to a maximum period of 90 days.

8. The writ petition accordingly stands dismissed.

**(Vikash Jain, J)**

Chandran

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