

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16003 of 2017

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Baleshwar Yadav, son of Late Mahanthi Yadav, Resident of Village - Dumriyahi,
P.S. - Ladaniya, District - Madhubani.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Food and Civil Supply, Govt. of Bihar, Patna.
2. The Principal Secretary, Co-operative Department, Govt. of Bihar, Patna.
3. The District Magistrate, Madhubani.
4. The Sub-Divisional Officer, Jaynagar, District - Madhubani.
5. The District Co-operative Officer, Madhubani.
6. The District Supply Officer, Madhubani.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjay Kumar Jha, Advocate.

For the Respondents : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-02-2018

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

2. The present writ petition has been filed for setting aside
the order contained in letter no. 119 dated 08.08.2016 passed by the Sub-
Divisional Officer, Jaynagar cancelling the P.D.S. Licence No. 12/2011 of
the petitioner Baleshwar Yadav, PACS, Chairman-cum-P.D.S. retailer of
Gram Panchayat-Piprahi of Ladaniya Block, District- Madhubani under
P.D.S. Control Order, 2001 and under Clause 7(ii) of Amended Order,
2001.

3. Learned counsel for the petitioner invites attention to the
impugned order dated 08.08.2016 according to which the petitioner's PDS



licence has been suspended on the ground that an FIR 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. It is pointed out that even though the order of suspension has been passed as far back as on 08.08.2016, 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 so far controverting the stand of the petitioner.

6. In the above view of the matter and having regard to the provisions of Rule 28 referred to above, the writ petition stands allowed and the impugned order of suspension dated 08.08.2016 (Annexure-1) is hereby quashed. Supplies to the petitioner shall be restored without delay.

7. It is made clear that in case the stand of the petitioner that no show cause notice was served consequent upon suspension of the licence as contemplated under Rule 28 aforesaid, is found to be incorrect, the



respondents shall be at liberty to approach this Court for recall of this judgment.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.02.2018
Transmission Date	N.A.

