

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17851 of 2017

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Sri Bodh Narayan Das, S/o Parmeshwar Harijan, Village- Dadpur, Village Panchayat- Dhodhia Dadpur, Ward No.-12, Block+P.S.- Kharik, Sub Division- Naugachhia, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food & Consumer Protection Department, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food & Consumer Protection Department, Government of Bihar, Patna.
3. The District Magistrate, District- Bhagalpur.
4. The Deputy Director, Food & Consumer Protection, Bhagalpur Division, Bhagalpur.
5. The District Supply Officer, District- Bhagalpur.
6. The Sub Divisional Officer-cum-Licensing Authority, Naugachhia, District- Bhagalpur.
7. The Block Supply Officer, Block- Kharik, Naugachhia, District- Bhagalpur.
8. The Block Supply Inspector, Block- Kharik, Naugachhia, District- Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha

For the Respondent/s : Mr. S.RAZA AHMAD -AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-07-2018

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

2. The present writ petition has been filed for quashing the order of suspension of the petitioner's PDS licence No. 15/1994 passed by the Sub-divisional Officer, Naugachhia, by Memo No. 453 dated 21.09.2016; and for connected reliefs.

3. Learned counsel for the petitioner invites attention to the



impugned order dated 21.09.2016 according to which the petitioner's PDS licence has been suspended on the ground that an FIR bearing Kharik P.S. Case No. 133 of 2016 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 further pointed out that even though the order of suspension has been passed as far back as on 21.09.2016, 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 matter, the writ petition stands allowed and the



impugned order of suspension dated 21.09.2016 (Annexure-2) 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 reasonable opportunity has been granted prior to suspension of his licence is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.07.2018
Transmission Date	NA

