

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1047 of 2018

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Md. Shoaib, Son of Late Abul Hasan, Resident of Village- Sirniya, P.S.- Ashok
Paper Mill, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food & Consumer Protection Department, Bihar, Patna.
2. The Additional Secretary, Food & Consumer Protection Department, Bihar, Patna.
3. The District Magistrate, Darbhanga.
4. The District Supply Officer, Darbhanga.
5. The Sub Divisional Officer, Sadar, Darbhanga.
6. The Block Supply Officer, Block Hayaghat District Darbhanga.
7. The Block Supply Inspector, Block Hayaghat District Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Jha

For the Respondent/s : Mr. ARVIND UJJWAL SC4

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 14-08-2018

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State as well as the learned counsel
appearing on behalf of the BSFC.

Petitioner challenges the cancellation of his PDS licence
by the Licensing Authority, the respondent no. 5, the Sub-Divisional
Officer, Sadar, Darbhanga dated 01.07.2017 as contained in
Annexure-6 on two grounds; firstly that his licence has been cancelled



merely on the institution of FIR being A.P.M.P.S. Case No. 80 of 2017 under Section 7 of the Essential Commodities Act and secondly only two days notice was given to him to show cause which is Annexure-3 dated 28.06.2014 for submitting his reply.

The facts of the case is that a Pick-up Van was found which was kept by the Mukhiya and 20-30 villagers who had complained that the Pick-up Van was being taken by one Santosh Kumar after loading 15 quintals of rice and 2.50 quintals of wheat from the PDS shop of the petitioner. He submits that before cancelling his licence as per the Bihar Targeted Public Distribution System (Control) Order 2016 (hereinafter referred to as the 'Control Order, 2016') under Section 28 if an FIR is lodged against a licensee, his licence shall be suspended but in the case of the petitioner his licence has been cancelled on the ground that an FIR had been lodged. He further submits that two days notice for reply to the show cause was clearly insufficient as held in the case of **Smt. Fulpati Devi Vs. The State of Bihar reported in 2013 (1) PLJR 718.**

Learned counsel for the State appears.

Considering that the order of cancellation of licence has been passed on the ground that FIR has been lodged against the petitioner and only two days notice to show cause has been given which is in violation of principles of natural justice, the order of



cancellation dated 01.07.2017 is quashed. The matter is remanded back to the Licensing Authority, the Sub-Divisional Officer, Sadar, Darbhanga to issue fresh show cause in compliance with the principles of natural justice and Rule 28 of the Control Order 2016. Supplies to the petitioner be released forthwith.

Writ application is, accordingly, allowed.

(Nilu Agrawal, J)

Devendra/Priyanka

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2018
Transmission Date	NA

