

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6470 of 2018

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Subodh Kumar Pandey, Son of Kameshwar Pandey, Resident of village - Barkagaon, P.S. Karja, District- Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The District Supply Officer, Muzaffarpur.
4. The Sub Divisional Officer (West), Muzaffarpur.
5. The Block Supply Officer, Marwan, Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Nachiketa Jha, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-05-2018

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

2. The present writ petition has been filed for the following
reliefs:

“(i) For issuance of an order, direction, writ including writ in the nature of certiorari to quash or set aside the order dated 22.12.2016 passed by the Sub Divisional Officer (West) Muzaffarpur whereby the learned S.D.O. (West), Muzaffarpur suspended the P.D.S. shop of the petitioner who is PACS Chairman-cum-PDS Dealer and also withheld the monthly allotment.

(ii) For issuance of an order, direction, writ including writ in the nature of mandamus directing the Respondents to allow the monthly allotment to the P.D.S. Shop of the petitioner.

(iii) Any other relief that the petitioner may be found to be



entitled to in the facts and circumstances of the present case.”

3. Learned counsel for the petitioner invites attention to the impugned order dated 22.12.2016 according to which the petitioner's PDS license has been suspended on the ground that an F.I.R. 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. A specific stand has been taken in paragraph of the writ petition to the effect that the petitioner was granted anticipatory bail in connection with Karja P.S. Case No. 05 of 2017. It is therefore submitted that the petitioner has neither gone to jail nor is fugitive and as such the pre-condition for suspension of his license under Rule 28 of the Bihar Targeted PDS (Control) Order, 2016 is not fulfilled. It is further pointed out that even though the order of suspension has been passed as far back as on 22.12.2016, 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 on their behalf till date.

6. In the above matter, the writ petition stands allowed and the impugned order of suspension dated 22.12.2016 (Annexure-3) is hereby quashed.

7. Supplies to the petitioner shall be restored without delay.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.05.2018
Transmission Date	N.A.

