

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12415 of 2018

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Sanjay Kumar Son of Shiv Chandra Singh Resident of Village and Post Office
Kerma Dih, P.S. Kudhani, District Muzaffarpur.

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner : Mr. Nachiketa Jha, Advocate.

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

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-07-2018

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 the order vide memo
no. 3433 dated 27.12.2016 passed by Sub Divisional Officer
(West) Muzaffarpur whereby he suspended the licence of
P.D.S. shop of the petitioner, situated at Gram Panchayat
Kerma Dih under Kudhani Block and stopped the allotment
of monthly income of the aforesaid shop.*

*(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 27.12.2016 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 on police bail in connection with Kudhani P.S. Case No. 47 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 27.12.2016, 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 27.12.2016 (Annexure-3) is hereby quashed.

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

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.07.2018
Transmission Date	N.A.

