

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13029 of 2018

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Jay Prakash Yadav son of Late Botli Yadav, resident of Village- Paura, P.S. Gogri (Paura), District- Khagaria.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Govt. of Bihar, Patna.
3. The Collector, Khagaria, District- Khagaria.
4. The District Supply Officer, Khagaria, District- Khagaria.
5. The Sub-Divisional Officer cum Licensing Officer, Gogri, District- Khagaria.
6. The Block Supply Officer, Gogri, District- Khagaria.

.... Respondents

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Appearance :

For the Petitioner : Mr. Amrendra Kumar, Advocate.

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

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-07-2018

The present writ petition has been filed for quashing of the order passed in Memo No. 2863 dated 30.12.2017 by the S.D.O., Gogri, whereby and whereunder learned S.D.O., Gogri has suspended the P.D.S. License bearing No. 55G/2007 of the petitioner.

2. Learned counsel for the petitioner invites attention to the impugned order dated 30.12.2017 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.”

3. A specific stand has been taken in paragraph 11 of the writ petition to the effect that the petitioner was granted anticipatory bail by order dated 21.05.2018 passed by a coordinate Bench of this Court in Cr. Misc. No. 17429 of 2018 in connection with Gogri (Paura) P.S. Case No. 548 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 licence 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 30.12.2017, 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.

4. Learned counsel for the respondents appears and has been heard. No counter affidavit has been filed till date.



5. In the above view of the matter, the writ petition stands allowed and the impugned order of suspension dated 30.12.2017 passed by the Sub-Divisional Officer, Gogri (Annexure-2) is hereby quashed.

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

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.07.2018
Transmission Date	N.A.

