

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16227 of 2018

Bindeshwar Chaudhary S/o Late Karu Chaudhary, Resident of Village-
Piprahiya, P.S.- Magadh University Bodh Gaya, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Food and Commerce and Civil Supplies, Bihar, Patna.
2. The Divisional Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Gaya.
4. The Sub Divisional Officer, Sadar, Gaya.
5. The District Supply Officer, Gaya.
6. The Block Supply Officer, Bodh Gaya, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sudhir Kumar Sinha
For the Respondent/s : Mr.S.Raza Ahmad - Aag5

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 15-03-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner is aggrieved by the order as contained in
Memo No.472 dated 14.05.2016 issued under the signature of
Sub-Divisional Officer, Sadar, Gaya by which the licence of the
Public Distribution Shop of the petitioner has been placed under
suspension on the solitary ground that one F.I.R has been lodged
against him.

Learned counsel for the petitioner submits that although
a show cause notice has been issued against the petitioner calling
upon him to show cause as to why his licence should not be
cancelled but that proceeding is pending and no order has



been passed therein. It is submitted that so far as the order of suspension of licence is concerned, under the provisions of Rule 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as the Control Order of 2016), suspension of the licence could have been done only in case the petitioner would have been in jail or would have gone fugitive. It is submitted that there is no such finding in the impugned order as contained in Annexure '2' to the writ application. It is further submitted that the case of the petitioner would be covered by the the order dated 06.03.2019 passed by this Court in CWJC No.24130 of 2018 and other analogous matters.

Learned counsel for the State has filed a counter affidavit in which it is submitted that the Sub-Divisional Officer, Sadar, Gaya has rightly suspended the licence of the petitioner as he was found involved in several illegalities. It is submitted that the petitioner has a remedy by filing an appeal before the District Magistrate, Gaya but instead of going in an appeal the petitioner has directly approached this Court.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that the impugned order as contained in Annexure '2' to the writ application is fit to be quashed and canceled in the light of the order dated 06.03.2019 passed by this Court in CWJC No.24130 of 2018 and other



analogous matters. There is no finding in the impugned order that the petitioner had been sent to jail or had gone fugitive, if there is no such finding, in the opinion of this Court, the ingredients of Rule 28 of the Control Order, 2016 are not satisfied. It is, thus, a case of jurisdictional error committed by the Sub-Divisional Officer, Sadar, Gaya and in such a case the writ application may be entertained. This Court is, thus, willing to entertain this writ application. The impugned order suffers from the vice of jurisdictional error and therefore, it is set-aside. This will, however, not come in the way of the Sub-Divisional Officer, Sadar, Gaya in proceeding with the pending matter in which a show cause proposing cancellation of licence has been issued. Let the proceeding be completed within a period of 90 days from the date of receipt/production of a copy of this order.

The application stands disposed of, accordingly.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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