

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.23806 of 2018**

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Ashok Kumar Singh Son of Late Chandradeep Singh Resident of Village-  
Jahangirpur, P.S.-Sonepur, District-Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Food, Supply and  
Commerce Department, Bihar, Patna.
2. The District Officer/District Magistrate, Saran, Chapra.
3. The Sub-Divisional Officer, Sonpur, Saran.
4. The Block Supply Officer, Sonpur, Saran.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Bal Mukund Prasad Sinha  
For the Respondent/s : Mr.S. Raza Ahmad- Aag5

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

2      11-03-2019                      Heard learned counsel for the petitioner and learned  
counsel for the State.

In the nature of the order being proposed to be passed,  
learned counsel for the parties agree that the writ application  
may be disposed of at this stage itself without looking for any  
counter affidavit.

In the present case, the petitioner is aggrieved by the  
order as contained in Annexure '4' to the writ application by  
which the licence of the petitioner for Public Distribution Shop  
has been suspended on the ground that one F.I.R being Sonepur  
P.S. Case No.145 of 2018 has been registered against him on  
25.02.2018 on the allegation that he was involved in black-  
marketing of the rice which were meant for distribution to the



beneficiaries through the Public Distribution Shop. Prayer is also for release of the foodgrains and the kerosene oil as were available to the petitioner earlier.

Learned counsel for the petitioner submits that in terms of Rule 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as the Control Order), the licence could have been placed under suspension only in case after lodging of the criminal case the petitioner would have been sent to jail or he would have gone fugitive. It is submitted that there is no such finding in the impugned order, thus, the order for suspension of licence on that ground alone would not be just and proper and is liable to be set-aside.

Learned counsel further submits that earlier vide Letter No.109 dated 10.03.2018 as contained in Annexure '2/1', a show cause notice was served upon the petitioner to show as to why his licence of the Public Distribution Shop should not be cancelled. It is submitted that the petitioner had replied to the said show cause notice, vide Annexure '3 Series' but despite submission of the said reply in the office of the Sub-Divisional Officer, Sonapur, Saran on 31.07.2018 till date no order has been passed thereon. It is submitted that in such circumstance,



the impugned order as contained in Annexure '4' is liable to be set-aside.

Learned counsel for the State submits that no doubt Annexure '4' seems to have been issued without recording any finding that the petitioner is in jail or has gone fugitive, the fact remains that the petitioner has been served a show cause notice vide Annexure '2/1' and the Sub-Divisional Officer, Sonapur, Saran would be competent to pass an order pursuant to the said Annexure '2/1'.

Having heard learned counsel for the petitioner and learned counsel representing the State, this Court finds that so far as the order as contained in Annexure '4' is concerned, it is liable to be set-aside because the same has been issued only on the ground that one F.I.R has been lodged against the petitioner for his alleged act of indulging in black-marketing. In this connection, Rule 28 of the Control Order, 2016 is crystal clear. For passing of an order suspending the licence on the ground of lodgment of a criminal case, the Sub-Divisional Officer, Sonapur, Saran was required to record a finding that the petitioner was either in jail or had gone fugitive. No such finding is there.

The order as contained in Annexure '4' is thus set-



aside, this Court is sitting under Article 226 of the Constitution of India, considering the fact that there are serious allegations against the petitioner, the Court is not willing to exercise its discretion in favour of the petitioner to grant him consequential benefits. It is apparent that Annexure '2/1' has been issued to the petitioner calling upon him to show cause as to why his licence for Public Distribution Shop should not be cancelled. The petitioner has submitted his reply and, therefore, at this stage, it would be only just and proper for the Sub-Divisional Officer, Sonepur, Saran to take a view on the reply of the petitioner, examine the whole matter pursuant to the show cause notice issued by him and after affording adequate opportunity of hearing to the petitioner, pass a final order within a period of 90 days from the date of receipt/production of a copy of this order.

The writ application is allowed to the extent indicated hereinabove.

**(Rajeev Ranjan Prasad, J)**

R.R.Ojha/-

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