

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2856 of 2019

=====

Rajeshwar Yadav, aged about 60 years (Male), S/O late Hardeo Yadav R/O
Village-Narayanpur,PS-Nauhatta,District Saharsa

... .. Petitioner

Versus

1. The State of Bihar through The Secretary ,food And Consumer Protection
department,Bihar Patna
2. The Collector Saharsa Bihar
3. The Sub Divisional Officer Sadar Saharsa Bihar
4. The Block Supply officer,Nauhatta Saharsa Bihar

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari
For the Respondent/s : Mr.S Raza Ahmad (AAG 5)

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

- 2. 18-06-2019** Petitioner in this case is aggrieved by the order as
contained in Memo No. 1008 dated 31.05.2018 passed by the
Sub-Divisional Officer, Sadar Saharsa by which the PDS shop
of the petitioner has been ordered to be tagged with another
Public Distribution System Shop Dealer.

Learned counsel for the petitioner submits that the
impugned order is indirectly and in sum and substance an order
of suspension. In fact, in the impugned order, there is no
direction to suspend the license and it is only to attach the shop
of the petitioner with another Public Distribution Shop but
despite lapse of a substantial period no further order has been
passed as a result whereof petitioner is unable to earn his
livelihood.



Learned counsel for the petitioner submits that from a bare reading of the impugned order as contained in Annexure '2' to the writ application it would appear that the same has been passed only on the ground that one first information report has been lodged against the petitioner. It is submitted that there is neither any finding that the petitioner has been arrested nor that he has gone fugitive. In this connection, he has relied upon a judgment dated 24.11.2017 of the learned coordinate Bench of this court in CWJC No. 7162/2017 as contained in Annexure '4' to the writ application to submit that in similar circumstance this court has been pleased to quash the impugned order.

Learned counsel for the State submits that although the license of the petitioner has not been placed under suspension but the shop was attached with another Public Distribution System Shop dealer, however he is unable to explain as to why no further order has been passed even after expiry of one year from the date of passing of the impugned order. It is submitted that in the given facts and circumstances the matter may be remitted to the Sub-Divisional Officer, Sadar Saharsa to pass a fresh order keeping in mind the provision of the Bihar Targeted Public Distribution System (Control) Order, 2016.



Having heard learned counsel for the petitioner and learned counsel representing the State this court finds that the impugned order as contained in Annexure '2' cannot sustain the test of law inasmuch as there is neither any finding that the petitioner has been arrested or has been absconding and has gone fugitive. In absence of such a finding there was no reason for the Sub-Divisional Officer, Sadar Saharsa to tag the Public Distribution System Shop of the petitioner with the another Public Distribution System Shop dealer. It has been done even though the license of the petitioner has not been suspended. Learned counsel for the petitioner has shown to this court that the petitioner was granted anticipatory bail vide order dated 23.07.2018 passed in ABA No. 518 of 2018, and, therefore there is no reason why the Public Distribution System Shop remains attached with another dealer. This court finds force in the submission of learned counsel for the petitioner. The impugned order as contained in Memo No. 1008 dated 31.05.2018 is hereby quashed.

The Sub-Divisional Officer, Sadar Saharsa is directed to restore the supply of the petitioner. This would however not preclude the Sub-Divisional Officer, Sadar Saharsa from proceeding with any action in accordance with law



if so advised.

This Writ Application stands disposed of.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U			
---	--	--	--

