

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3282 of 2019

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Arjun Yadav, S/o Late Sheetal Yadav, R/o Village Kishanpur Ward No.11, P.S.
Sour Bazar, Distt Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate Saharsa
2. The District Magistrate Saharsa
3. The Subdivisional Officer, Sadar Saharsa
4. The Block Supply Officer Patarghat Block, Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar
For the Respondent/s : Mr.Arvind Ujjwal (SC4)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 27-06-2019 Petitioner, in the present case, is aggrieved by the order as contained in memo no.1548-2 dated 20.06.2018 passed by the respondent no.3 by which the PDS licence of the petitioner has been placed under suspension only on the ground that one FIR has been lodged against him.

Learned counsel for the petitioner submits that the suspension order was issued on 20.06.2018, thereafter the respondent no.3 issued a show cause notice vide memo no.3085-2 dated 12.11.2018 calling upon the petitioner to show cause as to why his licence be not cancelled for his indulging in the act of black-marketing of the food-grains. It is submitted that the petitioner submitted his explanation dated 07.12.2018,



as contained in Annexure-8 to the writ application, but till date no order has been passed thereon. The grievance is that the order of the suspension is continuing even though it has been in violation of the Rule 28 of the Bihar Targeted PDS (Control) Order, 2016 (in short 'Control Order, 2016') as also after expiry of 180 days period within which the respondent no.3 had to pass further order. It is submitted that in the impugned order of suspension, as contained in Annexure-1 to the writ application, there is no statement that after lodging of the FIR the petitioner was absconding or had gone fugitive. He has relied upon a judgment of this Court in the case of Subodh Kumar Pandey Vs. the State of Bihar & Ors. (CWJC No.6470 of 2018) wherein a learned coordinate Bench of this Court having noticed that the order of suspension was passed in violation of the Rule 28 of the Control Order, 2016, quashed the same.

Learned counsel for the State submits that, in the given facts and circumstances of the case, the respondent no.3 was required to take an appropriate view of the matter after considering the show cause reply as contained in Annexure-8 to the writ application. Learned counsel has, however, also submitted that so far as Annexure-1 i.e. the order of suspension is concerned, there is no stipulation in the said order that the



petitioner has been absconding or has gone fugitive, therefore, to that extent, the order as contained in Annexure-1 does not satisfy the requirement of law.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that so far as the order as contained in Annexure-1 is concerned, the same cannot sustain the test of law inasmuch as there is no stipulation in the said order that the petitioner had gone fugitive or was absconding after lodging of the FIR. This Court has been informed that the petitioner has been granted anticipatory bail and, therefore, it cannot be assumed that the petitioner was absconding. This Court also finds that in terms of Rule 28 of the Control Order, 2016 it is must for the respondent no.3 to record a finding in tune with the requirement of law which is not present in Annexure-1 to the writ application. Thus, so far as Annexure-1 is concerned, it is wholly without jurisdiction and the same is liable to be set aside. It is, accordingly, set aside.

Upon setting aside of Annexure-1, the petitioner would become entitle to act as a PDS dealer but that would not come in the way of the respondent no.3 from proceeding further with the show cause notice as contained in Annexure-7 to the writ application and reply thereto as contained in



Annexure-8 to the writ application. The respondent no.3 would take an appropriate view on the same at the earliest and preferably within a period of three months from the date of receipt/production of a copy of this order.

The writ application stands allowed in part.

(Rajeev Ranjan Prasad, J)

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