

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4251 of 2019

Akhilesh Kumar aged about 46 years, Son of Madan Dhari Singh Resident of Village- Bishambharpur, P.S.- Bikaram, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Patna. Patna.
3. The Sub Divisional Officer, Paliganj, Patna. Patna.
4. The Block Supply Officer, Bikram, Patna. Patna.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Dineshwar Mishra, Advocate
For the Respondent/s : Mr. AC to SC4

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 16-04-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

In the nature of order proposed to be passed, learned counsel for the State submits that there would be no need to file a counter affidavit and the writ application would be disposed of at this stage.

The petitioner in the present case is aggrieved by the order dated 29.11.2018 as contained in Annexure '5' to the writ application passed by the Sub-Divisional Officer, Paliganj, Patna (respondent no. 3) by which the license of the petitioner for Public Distribution Shop has been cancelled.

Learned counsel for the petitioner has raised a short point for consideration for purpose of setting aside this order. According



to learned counsel for the petitioner, initially order of suspension of license was passed only because one FIR had been lodged against the petitioner under Section 7 of the Essential Commodities Act. It is submitted that this Court had occasion to consider Clause 28 of the Bihar Targeted PDS Control Order, 2016 in the case of **Laxman Jha @ Lakshman Jha Vs. The State of Bihar & Ors.** passed in **C.W.J.C. No. 24130 of 2018 and its analogous cases**, and after elaborate discussions, this Court has come to a conclusion that Rule 28 of the Bihar Targeted P.D.S. (Control) Order, 2016 (hereinafter referred to as 'the Control Order of 2016') will be applicable only in those cases where the licensee has either been sent to jail or has gone fugitive. It is submitted that in the present case neither the petitioner had been sent to jail nor he had gone fugitive and there was no finding to that effect in the impugned order.

It is submitted that in C.W.J.C. No. 21294 of 2018 this Court had been pleased to quash the order dated 09.06.2018 by which license of the petitioner was placed under suspension.

Learned counsel for the petitioner submits that the impugned order as contained in Annexure-5 is liable to be held bad in law as it has been passed in violation of principles of natural justice.



It is also pointed out that from Annexure '3' to the writ application it will appear that in course of inspection the Inspecting Officer had not found any irregularities in the matter of distribution of the rations to the beneficiaries. It is submitted that in the FIR also after investigation the Police has submitted final form.

Learned counsel for the State submits that in case this Court is willing to set aside the impugned order as contained in Annexure '5' to the writ application, this Court may grant an opportunity to the Sub-Divisional Officer, Paliganj to take an appropriate decision afresh.

In the given facts and circumstance of the case, this Court finds that the impugned order as contained in Annexure '5' to the writ application does not confirm the requirement of principles of natural justice as there appears no consideration of the case of the petitioner in the light of the inspection report and other materials. The impugned order dated 29.11.2018 is, therefore, liable to be set aside. It is accordingly, set aside. The writ application is allowed.

The Sub-Divisional officer, Paliganj would, however, be at liberty to take afresh and independent decision in the light of all materials which are available on the record and in



accordance with law. In the meantime, license of the petitioner
is restored and essential supplies will be restored.

(Rajeev Ranjan Prasad, J)

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