

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4045 of 2019

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South Lodhwe Pacs through its Chairman, namely Anand Kumar @
Rambhajju Das S/o Sri Nago Das, Resident of Village- Kathiauth, P.S.
Fatehpur, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Collector Gaya.
3. The Sub Divisional Officer, Sadar Gaya.
4. The Block Supply Officer, Fatehpur Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari
For the Respondent/s : Mr.Md. Anisul Haque, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 11-07-2019 Heard learned counsel for the petitioner and the State.

Petitioner in the present case is aggrieved by the order as contained in Annexure-3 to the writ application to the extent that the PDS shop licence of the petitioner has been placed under suspension without recording any finding as to existence of facts in terms of Rule 28 of the Bihar Targeted PDS (Control) Order, 2016 (hereinafter referred to as the 'Order of 2016').

Learned counsel for the petitioner submits that a bare perusal of Annexure-3 would show that the licence of the petitioner has been placed under suspension only on the ground that one FIR has been lodged against this petitioner. It is submitted that the order of suspension was passed on



18.07.2018, thereafter within 180 days the respondents were required to pass further order, the respondents no doubt had called upon the petitioner to show cause by same Annexure-3 as to why his licence should not be cancelled and the petitioner represented against the same vide Annexure-4, till date no final order has been passed. In paragraph 13 of the writ application, it is stated that the licence of the petitioner has not been cancelled.

Learned counsel for the State submits that in the given circumstance it appears from Annexure-3 that the suspension of the licence has been done without recording a finding that the petitioner was either absconding or had gone fugitive after lodgment of the FIR, therefore, to that extent Annexure-3 may be declared illegal but so far as the explanation sought for from the petitioner calling upon him to show as to why his licence should not be cancelled must be saved as that is in accordance with law.

Having heard learned counsel for the parties and on perusal of the records, this Court finds substance in the submission of learned counsel for the petitioner to the extent that the licence of the petitioner has been suspended without recording any finding that the petitioner was either absconding or had gone fugitive after lodgment of the FIR.



Learned counsel for the petitioner has agreed at the bar that so far as the order issuing show cause notice as to why licence should not be cancelled may remain, but the Sub-Divisional Officer be directed to take an appropriate decision thereon within a reasonable time. This Court, therefore, while setting aside that part of the impugned order by which the licence of the petitioner has been suspended, would save the later part by which the petitioner has been called upon to show cause as to why his licence should not be cancelled. The Licensing Authority i.e. the Sub-Divisional Officer, Sadar, Gaya is directed to restore the supplies of the petitioner and consider the reply of the petitioner to show cause notice as to why his licence should not be cancelled. Upon consideration, an appropriate order be passed by the S.D.O., Sadar, Gaya in accordance with law within a period of 90 days from the date of receipt/production of a copy of this order.

This writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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