

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3926 of 2019

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Vinay Kumar S/o Sri Arjun Singh, Resident of Village- Jahana, P.S.Akbarpur,
District- Nawada. Petitioner

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Collector, Nawada.
3. The Sub-Divisional Officer, Rajauli, Nawada.
4. The Block Supply Officer, Akbarpur, Nawada.

.. ... Respondents

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Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr.S. Raza Ahmad (Aag5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-07-2019 Petitioner in the present case is aggrieved by the order as contained in Memo No. 1884 dated 19.09.2018 (Annexure '3') by which the P.D.S. Shop license of the petitioner has been placed under suspension pursuant to lodging of a first information report under Section 7 of the Essential Commodities Act, 1955 against him.

Learned counsel for the petitioner submits that the impugned order has been passed only on the ground that one FIR has been lodged against the petitioner. It is submitted that in order to suspend the license of the petitioner after lodging of the FIR it was incumbent upon the licensing authority to find out whether the petitioner was absconding or had gone fugitive, if this finding has not been recorded and the license has been suspended only on the ground of lodging of the FIR, it is liable to be set aside. Reliance



in this regard has been placed on a learned Co-ordinate Bench judgment of this Court in C.W.J.C. No. 16733 of 2016.

Learned counsel for the State has filed a counter affidavit. In the counter affidavit statement has been made that after lodging of the FIR, petitioner was moving for evading his arrest and as such the license has been suspended.

In the given facts and circumstances of the case, where this Court finds that in the impugned order no such finding is recorded by the licensing authority saying that the petitioner was absconding or had gone fugitive, only because now statements are being made in the counter affidavit that petitioner was evading his arrest, the same cannot be supplanted in the impugned order and the legality and validity of the impugned order cannot be tested by taking note of the reasons stated in the counter affidavit.

The impugned order as contained in Annexure '3' is, thus, set aside. The matter is remitted to the Sub-Divisional Officer, Rajauli, Nawada to proceed afresh and in accordance with law. Pursuant to setting aside of the impugned order the petitioner would be entitled to get restoration of the supplies.

(Rajeev Ranjan Prasad, J)

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