

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21162 of 2018

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Baijanath Paswan S/o Late Moti Paswan, R/o Village- Pakarandha Chauki,
P.S.- Rani Talab, 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.
3. The Sub Divisional Officer, Paliganj, Patna.
4. The Block Supply Officer, Bikram, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dineshwar Mishra, Advocate
For the Respondent/s : Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 27-07-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

The petitioner in the present case is aggrieved by and dissatisfied with the order dated 09.06.2018 passed in Case No. 03 of 2018 by the Sub-Divisional Officer, Paliganj (Annexure '1') as well as the order dated 29.11.2018 by which after placing the license of the petitioner under suspension it has been cancelled by the subsequent order.

I. A. No. 01 of 2019 has been filed challenging the order of cancellation. Learned Counsel for the State has no objection to the same being made part and parcel of the writ application.

I. A. No. 01 of 2019 stands allowed.



In course of argument learned counsel for the petitioner has shown that the order of suspension has been passed against the petitioner without recording any finding that the petitioner had either been arrested or gone fugitive. It is further submitted that if it was not recorded as a finding, the conditions stipulated under Clause 28 (iii) of the Bihar Targeted P.D.S. (Control) Order, 2016 are not satisfied.

It is further submitted that the petitioner was served with the show cause notice dated 24.08.2018 (Annexure '2') in which there was no proposal to cancel the license. The petitioner had submitted his reply but then without considering the reply, the same has been rejected saying that it was fabricated. It is submitted that for all these reasons, the impugned order(s) are liable to set aside.

Learned counsel for the State is present. In the given facts and circumstances of the case, the matter may be remitted to the office of Sub Divisional Officer, Paliganj for a fresh consideration and passing of a reasoned order in accordance with law.

In the given facts and circumstances of the case, since the petitioner has been able to show that the order of suspension was passed without recording a finding as to



existence of the requirements envisaged under Clause 28 (iii) of the Control Order, 2016 and then the cancellation order has been passed without giving any show-cause proposing cancellation of license, for all those reasons, the impugned orders shall liable to be set aside.

Accordingly, the impugned order(s) dated 09.06.2018 and 29.11.2018 are hereby set aside and the matter is remitted to the Sub Divisional Officer, Paliganj (respondent no. 3) for fresh consideration.

Let the whole consideration will be given within a period of 90 days from the date of receipt/production a copy of this order.

In the meantime, license and supply of the petitioner shall stand restored.

(Rajeev Ranjan Prasad, J)

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