

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18489 of 2018

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Darogi Prasad Yadav S/o Late Daya Lal Yadav, Resident of Village-Telanga,
P.S.-Amour, District-Purnea. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Food & Consumer Protection Department, Bihar, Patna
2. The Collector, Purnea.
3. The Sub-Divisional Officer, Baisi, Purnea.
4. The Block Supply Inspector, Amour, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari
For the Respondent/s : Mr.S. Raza Ahmad- Aag5

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 19-02-2020

1. The present writ petition has been filed for quashing the order dated 27.08.2018, passed by the learned Sub-Divisional Officer, Baisi, Purnea, whereby and whereunder the P.D.S. licence of the petitioner bearing licence no. 44 of 2016 has been suspended.

2. The learned counsel for the petitioner has submitted that the licence of the petitioner has been suspended merely on account of filing of an F.I.R. dated 11.10.2017 bearing Amour PS case no. 140 of 2017 under Section 420/34 of Indian Penal Code and Section 7 of E.C. Act. It is further submitted that the order of suspension has been passed on 27.08.2018 by the learned S.D.O. Baisi, Purnea, however the



petitioner has been released on bail prior to passing of the said order dated 27.08.2018, in pursuance to an order dated 22.12.2017, passed by a coordinate Bench of this Court in Cr. Misc. no. 61920 of 2017, whereby and whereunder the petitioner has been granted anticipatory bail. It is thus submitted that the provisions contained in ***Rule 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016*** have been contravened, inasmuch as the same provides for suspension of P.D.S. licence only in case, the petitioner is behind bars or has been declared fugitive, however in the present case, neither the petitioner is behind bars nor has been declared fugitive and on the contrary, the petitioner has been granted the privilege of anticipatory bail by a coordinate Bench of this Court vide order dated 22.12.2017.

3. The learned counsel appearing for the State, on instructions, submits that the licence of the petitioner has yet not been cancelled and is under suspension.

4. Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel for the parties as also taking into account the provision contained in ***Rule 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016***, this Court is of the opinion that



the impugned order dated 27.08.2018, passed by the learned Sub-Divisional Officer, Baisi, Purnea is not sustainable in the eyes of law, inasmuch as firstly, mere filing of the F.I.R. could not have resulted in suspension of the P.D.S. licence of the petitioner even without the petitioner being either declared a fugitive or being behind the bars and secondly, the outer limit of the efficacy of the suspension order as per ***Rule 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016*** is 180 days and since no further action has been taken despite lapse of 180 days, the order of suspension has been rendered *otios*. Accordingly, the impugned order dated 27.08.2018, passed by the learned Sub-Divisional Officer, Baisi, Purnea being contrary to law as also in the teeth of the provisions contained in ***Bihar Targeted Public Distribution System (Control) Order, 2016***, as aforesaid, is quashed, being unsustainable in the eyes of law.

5. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.03.2020
Transmission Date	NA

