

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21755 of 2018

=====

Lakshmi Narayan Singh son of late Jagdish Singh Resident of village
Sautadih, P.O. Sutadih, P.S. Belhar, District Banka Bihar.

... .. Petitioner

Versus

1. The State Of Bihar, through the Principal Secretary, Department of food,
Supply and commerce, Government of Bihar, Patna
2. Principal Secretary, Department of Food, Supply and Commerce,
Government of Bihar, Patna
3. District Magistrate, Banka
4. Sub-Divisional Officer, Banka

... .. Respondents

=====

Appearance :

For the Petitioner	:	Mr. Ajay Kumar Thakur, Adv. Mr. Nilesh Kumar, Adv. Mr. Arya Achint
For the Respondents	:	Mr. Maruthi Nath Roy, A.C to S.C-4 Mr. Arvind Ujjwal -Sc4

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 18-02-2020 Heard the learned counsel for the petitioner and the

learned counsel for the respondents.

The present writ petition has been filed for
quashing the order dated 12.04.2017 passed by the
Sub-Divisional Officer, Banka, whereby and whereunder the
PDS licence of the petitioner bearing licence No. 11 of 2012 has
been suspended on account of lodging of an FIR dated
29.03.2017 under Section 7 of the E.C. Act against the petitioner
herein.

The learned counsel for the petitioner has



submitted that a bare perusal of Rule 28 of the Bihar Targeted PDS (Control) Order, 2016 would show that the PDS licence can be suspended only in case the licence holder is behind the bar or fugitive. However, in the present case neither the petitioner is behind the bar nor he is a fugitive, as is apparent from paragraph No. 7 of the writ petition. It has been stated that the petitioner has been granted bail by a co-ordinate Bench of this Court vide order dated 19.09.2017 passed in Criminal Misc. Case No. 44508 of 2017. It is thus submitted that since the petitioner is neither fugitive nor is behind the bars, the PDS licence could not have been suspended, merely upon lodging of the FIR.

At this juncture it would be relevant to reproduce clause 28 of the Bihar Targeted PDS Control Order 2016 hereinbelow :-

“28. Actions to be taken against a licensee after a FIR lodged:- If an FIR is lodged against a licensee under the Essential Commodities Act, 1955 or for any other criminal cases, and he is sent to jail or he goes fugitive, his license shall be suspended by the licensing authority with immediate effect, and after serving show cause notice upon him in accordance with Civil Procedure Code and giving him sufficient opportunity to present his case, a lawful action shall be taken within 180 days, as far as possible.”



Having regard to the facts and circumstances of the case and considering the submission made by the learned counsel for the parties as also taking into account Rule 28 of the Bihar Targeted PDS Control Order 2016, this Court finds that neither the petitioner is behind the bar nor he has been declared fugitive and instead he has been granted bail vide order dated 19.09.2017, passed by a co-ordinate bench of this Court in Criminal Misc. No. 44508 of 2017. Hence, this Court has no hesitation in coming to a finding that according to the provisions contained in the Rule 28 of the Bihar Targeted PDS (Control) Order 2016, the conditions required for suspension of the PDS licence are clearly missing in the present case, hence the impugned order dated 12.04.2017, passed by the Sub-Divisional Officer, Banka is illegal, thus is quashed.

It is needless to state that the Sub-Divisional Officer, Banka would be free to take appropriate steps afresh in accordance with law.

The writ petition stands allowed on the aforesaid terms.

(Mohit Kumar Shah, J)

K.K.RAO/-

U			
---	--	--	--

