

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.10734 of 2019**

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Md. Zulfequar Ali Son of Late Md. Rustam Ali R/o Village-Mohanpur, Ward  
No. 04, P.S.-Bakhtiyarpur, O.P. Balwahat, District-Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Food and Civil Supply Department,  
Old Secretariat, Patna
2. The Sub Divisional Officer, Simari Bakhtiyarpur, Saharsa
3. The Block Supply Officer, Simari Bakhtiyarpur, Saharsa

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Vijay Anand

For the Respondent/s : Mr.Arvind Ujjawal (SC4)

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**

**ORAL JUDGMENT**

**Date : 14-01-2020**

Heard the learned counsel for the parties.

The petitioner is aggrieved by the order dated  
27.02.2019 contained in Memo No. 406-2 passed by the  
Sub-Divisional Officer, Simari Bakhtiyarpur, whereby under  
the direction of Block Supply Officer, Simari Bakhityarpur,  
the customers attached to the Public Distribution Shop of



the petitioner have been tagged with the shop of another licensee, namely, Surendra Kumar Jha.

It appears from the order that such an action has been taken pursuant to lodging of the F.I.R. against the petitioner / licensee.

Learned counsel for the petitioner has submitted that in the event of an F.I.R. being lodged against any licensee, the action contemplated is stated in rule 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016. The aforesaid rule specifically postulates that if an F.I.R. is lodged against a licensee under the Essential Commodities Act, 1955 or for any other criminal case and the licensee is sent to jail or goes fugitive, his license shall be suspended by the licensing authority with immediate effect and after serving show cause notice to him in accordance with the provisions of CPC and giving him sufficient opportunity to present his case, a lawful action be taken within 180 days as far as possible.



This postulates of an action by the Department in the event of the licensee either going to jail or going incommunicado in the event of lodging of the F.I.R. The authority under the Act would be perfectly justified in suspending the license of the petitioner on mere registration of the F.I.R. but it would be under an obligation to serve a show cause notice upon the licensee in accordance with the provision of CPC and after affording him an opportunity of hearing, decide about any future course of action, preferably within a period of 180 days.

The grievance of the petitioner in the present case is that the procedure prescribed under rule 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016 has not been followed. The fact of the F.I.R. having been registered against the petitioner has not been denied but the petitioner has not been served with any notice regarding his license having been suspended as has been asked for his clarification / reply in the matter.



Without suspending the license of the petitioner, it has been urged, the customers cannot be de-tagged and placed at the disposal of another licensee. The action of the Sub-Divisional Officer, even though on the advice of Block Supply Officer of Simari Bakhtiyarpur, is beyond the mandate of the Bihar Targeted Public Distribution System (Control) Order, 2016.

The license of the petitioner could have been suspended and even the customers attached to his shop could have been de-tagged and associated with another shop; however, for doing this, firstly, the license had to be suspended and a show-cause notice had to be given to the petitioner and his reply had to be sought and considered.

Unnecessary haste appears to have been shown by the concerned respondent and certain procedural safeguards have been completely given a go-bye. There appears to be a Kangaroo movement of the action taken by the respondents.



This does not appear to be sustainable in the eyes of law.

The order impugned therefore is set aside.

The matter is remitted to the learned Sub-Divisional Officer, Simari Bakhtiyarpur for writing out a fresh order in accordance with law.

Since the customers of the shop of the petitioner have been tagged with another PDS dealer, it can be presupposed that the supply line to the petitioner's shop has been discontinued. In that event, in order to prevent any disruption of the monthly supply of essential commodities to the customers, this Court does not order for any status quo ante, but definitely directs for passing of a fresh order in accordance with law as indicated above within a period of 30 days from the date of production/receipt of a copy of this order.

Should the explanation of the petitioner find favour with the licensing authority, the petitioner ought to be reverted back to his original position.



With the aforesaid observation / direction, this  
petition stands disposed off.

(Ashutosh Kumar, J)

skm/-

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