

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11606 of 2019

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Md. Shamsheer Ali S/o Nashirudin Resident of Village + Post + P.S.- Beheri,
Distt.- Darbhanga, presently PACS Chairman-cum-PDS Dealer, Baheri East,
Distt.- Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna
2. The Secretary, Food and Civil supply, Govt. of Bihar, Patna
3. The Divisional Commissioner, Darbhanga
4. The District Magistrate, Darbhanga
5. The District Supply Officer, Darbhanga
6. The Licensing Authority cum the Sub Divisional Officer Sadar, Darbhanga
7. The Block Supply Officer, Baheri, Distt.- Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pankaj Kumar Jha
For the Respondent/s : Mr.Arvind Ujjwal (SC4)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 09-10-2020 Heard both sides through video conferencing.

The petitioner moved this Court for quashing of the order dated 27.11.2018 as contained in Memo No.809 issued by the Sub-Divisional Officer, Sadar, Darbhanga(Annexure-4).

Learned counsel for the petitioner submits that license of the petitioner has been cancelled under Clause 28 of Bihar Targeted Public Distribution System (Control) Order, 2016 on the ground that Baheri P.S. Case No.227 of 2018 is registered on 10.11.2018. Learned counsel for the petitioner further submits that Clause 28 of Bihar Targeted Public Distribution System



(Control) Order, 2016 says that the license of the licensee shall be cancelled only when upon institution of the F.I.R., the licensee is sent to jail or he became fugitive. Mere institution of the F.I.R. does not warrant cancellation of license of a licensee. The petitioner was neither sent to jail nor he became fugitive nor declared absconder by any competent court.

Learned counsel for the State fairly conceded the facts.

Having considered the submissions of both sides and on perusal of the impugned order, I find that Clause 28 of Bihar Targeted Public Distribution System (Control) Order, 2016 prescribed two conditions for suspension of license on institution of F.I.R. The first condition is that after institution of the F.I.R., the licensee is sent to jail and the second condition is that licensee became fugitive or he be declared absconder but the conditions enumerated in Clause 28 of Bihar Targeted Public Distribution System (Control) Order, 2016 have not been satisfied even then the Sub-Divisional Officer, Sadar, Darbhanga suspended the license of the petitioner and the same is still suspended even after lapse of more than 180 days. The Act provides that license should not remain under suspension for more than 180 days. Thus, I find that the order is passed on non-est ground and the same is not sustainable.



Accordingly, the order dated 27.11.2018 as contained in
Annexure-4 is set aside. This writ petition is allowed.

(Prabhat Kumar Jha, J)

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