

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17170 of 2019

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Lalit Narayan Jha S/o Subudh Narayan Jha R/o Vill.- Bheeth Bhagwanpur,
P.S.- Madhepur, Distt.- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna
2. The District Magistrate, Madhubani
3. The Sub-Divisional Officer, Jhanjharpur
4. The Block Supply Officer, Madhepur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Akash Chaturvedi, Advocate
For the Respondent/s : Mr.S.Raza Ahmad (AAG5)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 25-11-2020 Heard both sides through video conferencing.

The petitioner seeks quashing of the order dated 29.09.2017 as contained in Memo No.516(Annexure-3) by which the Sub-Divisional Officer, Jhanjharpur cancelled the P.D.S. license of the petitioner on the ground that an F.I.R. has been lodged under Section 7 of Essential Commodities Act and chargesheet is also submitted against the petitioner.

Learned counsel for the petitioner submits that there is provision under clause 28 of Bihar Targeted Public Distribution System(Control) Order, 2016 for suspension and cancellation of license on institution of F.I.R. and after institution of F.I.R. if the licensee is either sent to jail or licensee becomes fugitive but the



petitioner was neither sent to jail nor he became fugitive. Petitioner was granted anticipatory bail. It is submitted that one Fakir Ansari, son of Kismat Ansari of village Akahi, P.S. Madhepur was carrying two bags 50 kgs. rice and 50 kgs. wheat on his cycle. The informant of Madhepur P.S. Case No.41 of 2014 is the Circle Officer-cum-Block Supply Officer and the informant alleged that Fakir Ansari admitted that he purchased 50 kgs. rice and 50 kgs. wheat from the P.D.S. shop of the petitioner(Lalit Narayan Jha). On such confession of Fakir Ansari, petitioner was also made accused in the case but petitioner was never sent to jail or he never became fugitive. Petitioner was granted anticipatory bail as submitted by the learned counsel for the petitioner. It is further submitted that Block Supply Officer on recovery of wheat and rice from Fakir Ansari should have raided the shop of the petitioner and verified the stock register but the Block Supply Officer did not inspect the shop of the petitioner nor shortage of any foodgrains was found. In absence of such, petitioner cannot be alleged to have sold the foodgrains of P.D.S. shop to Fakir Ansari who was not a card holder. No show cause was ever asked from the petitioner. From perusal of the provisions as contained in clause 28 of Bihar Targeted Public Distribution System(Control) Order,



2016, it would appear that none of the conditions is fulfilled for either suspension or cancellation of license of the petitioner.

Mr. Alok Ranjan, learned A.C. to A.A.G.5 very fairly submits that this order, in absence of any definite finding with regard to selling the foodgrains in black market, cannot be supported.

Having considered the facts and submissions made above, I find that the order dated 29.09.2017 as contained in Memo No.516(Annexure-3) is bad, illegal and not sustainable, accordingly, the same is set aside. This writ petition is allowed accordingly.

(Prabhat Kumar Jha, J)

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