

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20906 of 2018

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Prince Vishal Son of Sri Dilip Kumar Resident of Village-Bitho Sharif,
Village Panchayat-Kandi, Police Station-Chakand, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub-Divisional Officer, Sadar Gaya.
4. The Block Supply Officer, Sadar, Dist.-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar
For the Respondent/s : Mr. AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 30-09-2020 Heard Mr. Binay Kumar, the learned counsel for the petitioner, and the learned AC to AAG 5.

The matter has been taken up through video conferencing.

The petitioner, in this writ petition, seeks quashing of the order dated 21.05.2018 passed by the Sub Divisional Officer, Sadar Gaya (Annexure-1) by which the license of the petitioner was suspended in exercise of power under Clause 28 of the Bihar Targeted P.D.S. (Control) Order, 2016 on the ground that a First Information Report has been registered against the petitioner. The petitioner further challenges the order dated 30.06.2018 (Annexure-2) by which the Sub Divisional Officer, Sadar Gaya cancelled the license of the petitioner.

The learned counsel for the petitioner submits that order of suspension of license of the petitioner is on nonest ground. Clause 28 of the Bihar Targeted P.D.S. (Control) Order,



2016 envisage that suspension of the license could be done on lodging of the FIR if the petitioner is lodged in jail or turn fugitive but even after institution of FIR the petitioner was not arrested nor he was declared fugitive. The petitioner was granted anticipatory bail, therefore, two essential conditions for suspension of license of a P.D.S. licensee that after institution of the FIR the licensee either lodged in jail or became fugitive are not fulfilled and, thus, the suspension of license is based on nonest ground and the subsequent order canceling the license of the petitioner on nonest ground is also illegal and not sustainable. It is also submitted that this court held in the case of Radhe Krsishna v. the State of Bihar & Ors (CWJC No. 16733 of 2016) that order of suspension of license merely on the ground of lodging of the FIR is not sustainable in the eye of law.

The learned counsel for the State has not disputed the facts.

Having considered the facts I find that license of the petitioner has been suspended on mere institution of the FIR and other two conditions, which are enumerated in Clause 28 of the Bihar Targeted P.D.S. (Control) Order, 2016 that after institution of the FIR the licensee is put in jail or he became fugitive, are not fulfilled, therefore, the licensing authority has suspended the license of the petitioner on nonest ground without looking into the provisions as enumerated in Clause 28 of the Bihar Targeted P.D.S. (Control) Order, 2016. Subsequently, the licensing authority cancelled the license of the petitioner (Annexure-2).

Accordingly, the order dated 21.05.2018 passed by the Sub Divisional Officer, Sadar, Gaya (Annexure-1) and the order dated 30.06.2018 (Annexure-2) are set aside. This writ petition is allowed with a direction to the respondents to restore the



supply to the petitioner forthwith. However, the respondents are at liberty to proceed against the petitioner, in accordance with law.

(Prabhat Kumar Jha, J)

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