

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.145 of 2020

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Ram Naresh Singh, Son of Late Shivalak Singh, Resident of Village-Pathra,
Police Station-Mohanpur, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food Supply and Consumer Protection Department, Patna.
2. The District Magistrate, Gaya.
3. The District Supply Officer, Gaya.
4. The Assistant District Supply Officer, Sherghati, District-Gaya.
5. The Sub Divisional Officer, Sherghati, Gaya.
6. Block Supply Officer, Mohanpur, District-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binod Kumar Sinha
For the Respondent/s : Mr.S.Raza Ahmad (AAG-5)
Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 14-02-2020 The present writ petition has been filed for quashing the order dated 17.10.2019 passed by the learned Sub-Divisional Officer, Sherghati, Gaya, whereby and whereunder the license of the petitioner bearing No. 63 of 2016, issued for running *Jan Vitran Pranali* shop, has been suspended with immediate effect .

The learned counsel for the petitioner has submitted that a bare perusal of the impugned order dated 17.10.2019 would show that the license of the petitioner has been suspended in light of the provisions contained in Rule 28 of the Bihar Targeted P.D.S. (Control) Order, 2016 inasmuch as an FIR dated



30.09.2019 has been registered against the petitioner herein.

It is submitted that the said order dated 17.10.2019 passed by the Sub-Divisional Officer, Sherghati, Gaya, is illegal inasmuch as the petitioner had surrendered on 04.10.2019 in connection with aforesaid F.I.R. bearing Barachatti (Mohanpur) P.S. Case No. 456 of 2019 and was granted bail on the very same day, hence he cannot be said to be a fugitive and moreover he is also not absconding since he is on bail.

In this connection, Rule 28 of the Bihar Targeted P.D.S. (Control) Order, 2016 is reproduced herein below:-

“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.”

The learned counsel for the State has submitted that in case the petitioner has been granted bail, then it would be presumed that the petitioner is not a fugitive.



Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties as also taking into account the provisions contained in Rule 28 of the Bihar Targeted P.D.S. (Control) Order, 2016 and also considering the fact that the petitioner is not in jail as also he is not a fugitive, since he has already been granted bail by the learned court below in connection with aforesaid F.I.R., this Court is of the view that the suspension of the license of the petitioner is not lawful but illegal.

Consequently, the order dated 17.10.2019 passed by the Sub-Divisional Officer, Sherghati, Gaya, whereby the license of the petitioner bearing No. 63 of 2016 has been suspended, is quashed.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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