

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 8439 of 2021

=====

Jagnarayan Mahto S/o Late Rup Lal Mahto, R/o Village-Mahrail, P.S.-
Rudrapur, District-Madhubani.

... .. Petitioner/s

Versus

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

... .. Respondent/s

=====

Appearance:

For the Petitioner/s : Ms. Namrata Mishra, Advocate
For the Respondent/s : Mr. Arvind Ujjwal (SC-4)
Mr. Upendra Pratap Singh, AC to SC-4

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 25-08-2021 The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

The present writ petition has been filed for quashing the order dated 16.05.2020 issued by the Sub-Divisional Officer, Jhanjharpur, District-Madhubani, whereby and whereunder the PDS license of the petitioner bearing License No. 47 of 2016 has been suspended with immediate effect.



The brief facts of the case are that on 09.05.2020 the Block Supply Officer, Andhrathadi, District-Madhubani inspected the PDS shop of the petitioner and he is stated to have informed the petitioner orally that he had received a video on his mobile at 9:00 P.M. on 08.05.2020 showing that the petitioner was black marketing wheat. The Block Supply Officer, Andhrathadi, District-Madhubani had then submitted inspection report to the Sub-Divisional Officer, Jhanjharpur, District-Madhubani vide letter dated 09.05.2020, whereafter the Sub-Divisional Officer, Jhanjharpur, District-Madhubani had lodged an FIR bearing Rudrapur P.S. Case No. 46 of 2020 against the petitioner under Section 7 of the E.C. Act. On the basis of institution of the said FIR against the petitioner, the Sub-Divisional Officer, Jhanjharpur, District-Madhubani, by the impugned order dated 16.05.2020, suspended the PDS license of the petitioner.

The learned counsel for the petitioner Ms. Namrata Mishra has raised a short issue for consideration and for that purpose has relied on Order 28 of the Bihar Targeted PDS (Control) Order, 2016, which reads as follows:-

“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 petitioner has thus submitted that the order of suspension cannot survive beyond a period of 180 days and a final order is required to be passed before expiry of 180 days from the date of suspension of the license of the petitioner, however, no lawful action has been taken in the present case till date and the period of 180 days has already lapsed, therefore, the impugned order dated 16.05.2020, suspending the PDS license of the petitioner, is fit to be set aside.

The learned counsel for the respondent State has not disputed the position as is existing in law.

Having regard to the facts and circumstances of the case and considering the provisions contained in Rule 28 of the Bihar Targeted PDS (Control) Order, 2016, this Court finds that the period of suspension of the PDS license of the petitioner has exceeded 180 days, however, no lawful action has been taken and moreover, the petitioner has also been granted



regular bail by a coordinate bench of this Court vide order dated 02.11.2020 passed in Criminal Misc. No. 27968 of 2020, hence he cannot be said to be a fugitive.

Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, I find that the order dated 16.05.2020 passed by the Sub-Divisional Officer, Jhanjharpur, District-Madhubani, suspending the PDS license of the petitioner, has lived its life inasmuch as a period of 180 days has already lapsed, hence the same cannot survive, being in teeth of the provisions contained under Rule 28 of the Bihar Targeted PDS (Control) Order, 2016, hence is quashed.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

S.Sb/-

U			
---	--	--	--

