

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10646 of 2021

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Sohan Kumar Son of Late Mishri Paswan, Resident of Village - Heganpura,
P.S.- Noorsarai, District - Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Sub-Divisional Officer, Bihar Sharif, Nalanda.
3. The Block Supply Officer, Noorsarai, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand, Advocate
For the Respondent/s : Mr. Arvind Ujjwal (Standing Counsel-4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 27-10-2021 The present petition has been filed for quashing the order dated 28.08.2017, whereby and whereunder the allotment made to the PDS shop of the petitioner has been tagged with another shop resulting in stoppage of supply of food grains etc. to the PDS dealership of the petitioner on account of lodging of an FIR bearing Noorsarai P.S. No. 189 of 2017.

The short issue raised by the petitioner for consideration of this Court is that as on the date of passing of the impugned order dated 28.08.2017 neither the petitioner was a fugitive nor he was behind bars, hence the grounds mentioned in Rule 28 of the Bihar Targeted PDS (Control) Order, 2016 (hereinafter referred to as the Order, 2016) are not fulfilled so as to warrant any action by the Sub-Divisional Officer, Bihar Sharif. It is further submitted



that the life of the impugned order dated 28.08.2017 has in any view of the matter expired inasmuch as no final order cancelling the license in question has been passed within a period of 180 days, as stipulated under Rule 28 of the Order, 2016.

Per contra, the learned counsel for the respondent-State Shri Upendra Pratap Singh, AC to Standing Counsel-4 has not disputed the position as is existing in law.

Having regard to the facts and circumstances of the case and considering the fact that neither the petitioner was a fugitive nor he had been put behind bars, as on the date of passing of the impugned order dated 28.08.2017 and moreover, the petitioner has already been granted bail by an order dated 12.10.2017 passed by the Sessions Judge, Bihar Sharif, Nalanda in Anticipatory Bail Petition No. 2397 of 2017, this Court finds that the impugned order dated 28.08.2017 passed by the Sub-Divisional Officer, Bihar Sharif is *de hors* the provisions contained in Rule 28 of the Order, 2016, hence stands vitiated in the eyes of law, thus is quashed.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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