

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 11819 of 2021

=====

Kataka Paigambarpur PACS through its Chairman Shreekant Sharma @
Srikant, male, aged about 61 years, son of Yegeshwar Singh, resident of
village- Kauri, Dahiya, P.s.- Paliganj, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer
Protection Department, Govt. of Bihar at Patna
2. District Magistrate, Patna, District- Patna
3. The Sub Divisional Officer cum Licensing Authority Paliganj, District-
Patna
4. Block Supply Officer, Paliganj, District- Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Mr. Upendra Pratap Singh (AC to SC 4)

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 13-09-2021 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 26.04.2021, passed by the Sub Divisional
Officer, Paliganj, Patna, whereby and whereunder the P.D.S.
licence of the petitioner bearing License no. 212/2016-17 has
been suspended.

The learned counsel for the petitioner has submitted



that a bare perusal of the show cause notice dated 25.03.2021, issued by the Sub Divisional Officer, Paliganj would show that the show cause notice had been issued mentioning therein regarding the proposal of cancellation of license. It is further submitted that a license can be suspended, only in accordance with ***Rule 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016***, in case an F.I.R. is lodged against the licensee, the licensee is sent to jail or he goes fugitive and not in any other case. In the present case, admittedly, neither any F.I.R. has been lodged against the licensee nor the licensee has gone fugitive, thus it is submitted that the impugned action of suspension of the license in question, is contrary to the provisions of law contained in ***Bihar Targeted Public Distribution System (Control) Order, 2016***, hence the impugned Order dated 26.04.2021 stands vitiated.

The learned counsel for the respondent- State Sri Upendra Pratap Singh (AC to SC 4) has not disputed the position, as is existing in law.

Having heard the learned counsel for the parties and having gone through the materials on record, it is apparent that neither any F.I.R. has been lodged against the licensee nor the licensee has become a fugitive, hence there is no provision



under the ***Bihar Targeted Public Distribution System (Control) Order, 2016*** which postulates suspension of license of a licensee and moreover, even the show cause notice dated 25.03.2021, issued to the petitioner does not mention about suspension of the license of the petitioner and in fact merely states about the proposed punishment of cancellation of license of the petitioner.

Having regard to facts and circumstances of the case and for the reasons mentioned herein above, this Court finds that the order dated 26.04.2021, passed by the Sub Divisional Officer, Paliganj, Patna, suspending the licence of the petitioner, is vitiated in the eyes of law, hence is quashed, however the matter is remanded back to the Sub Divisional Officer, Paliganj, Patna, with a direction to him to grant appropriate opportunity to the petitioner and then pass a reasoned and a speaking order, in accordance with law.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

rinkee/-

U			
---	--	--	--

