

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 454 of 2021

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Ramlakhan Singh son of Late Ramjapo Singh, Resident of Ward No.
3, Rampur Alauli, Post- Alauli, Police Station Alauli, District
Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection Department, Old Secretariat, Patna.
2. The Secretary, Food & Consumer Protection Department, Old Secretariat, Patna.
3. The District Magistrate, Khagaria.
4. The Sub-Divisional Officer, Khagaria.
5. The District Supply Officer, Khagaria.
6. The Block Officer, Alauli, Khagaria.

... .. Respondent/s

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Appearance :
For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Ms. Preeti Kunwar, Advocate.
For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4
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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

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24-09-2021

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 2.6.2020 passed by the Sub-Divisional Offi whereby and where under the



P.D.S. License of the petitioner bearing License No. 19A/2007 of 2017 has been suspended on the very next day of lodging of an FIR bearing Alauli P.S. Case No. 160 of 2020 under Section 7 of the Essential Commodities Act.

The learned Senior counsel for the petitioner, Shri N.K. Agrawal, assisted by Ms. Preeti Kunwar, Advocate, submits that immediately on the very next day of filing of the FIR against the petitioner i.e. Alauli P.S. Case No. 160 of 2020, the PDS license of the petitioner has been suspended and that too without affording an opportunity of hearing to the petitioner in as much as no show cause notice was issued prior thereto. Nonetheless, as per Rule 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016, the life of an order of suspension is 180 days and such order cannot survive beyond a period of 180 days, hence the impugned order dated 2.6.2020 is fit to be set aside.

Per contra, the Ld. counsel for the respondent State, Shri Upendra Pratap Singh, AC to SC-4 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 Public Distribution System (Control) Order, 2016, t

that the period of suspension



of the PDS license of the petitioner has exceeded a period of 180 days, however, it appears that no final decision has been taken, apart from the fact that the license of the petitioner was suspended on the very next day of lodging of the FIR in question, without either issuing a show cause notice to the petitioner or granting him opportunity to put forth his defence, resulting in the impugned order dated 2.6.2020 passed by the Sub-Divisional Officer, Alauli being vitiated in the eyes of law on this ground as well, hence the order dated 2.6.2020 passed by the Sub-Divisional Officer, Alauli is quashed.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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