

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9257 of 2021

Nitu Kumari W/o Sri Rama Shankar Kumar, D/o- Ramakant Rai, resident of Village- Shahpur Chauk, Umar Lakhmipur, District- Vaishali, at present resident of Jagannathpur, P.S. Kudhni, District- Muzaffarpur, having licence No. 23150177/19 PDS Dealer, Jagannathpur Panchyat, Kudhni, Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The District Supply Officer, Muzaffarpur.
5. The District Manager, Bihar State Food Corporation, Muzaffarpur.
6. The Sub- Divisional Officer, West Muzaffarpur.
7. The Block Development Officer, Kudhni, Muzaffarpur.
8. The Block Supply Officer, Kudhni, Muzaffarpur.
9. The Marketing Officer, Kudhni, Muzaffarpur.
10. Sawan Kumar, PDS Dealer, Jagannathpur Panchyat, Block- Kudhni, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kaushal Kishor, Advocate
For the Respondent/s : Mr.Lalit Kishore (AG)

CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

2 07-02-2022 The present writ petition has been filed for quashing the order dated 12.09.2020 passed by the Sub-Divisional Officer, West Muzazffarpur whereby and whereunder the PDS license of the shop of the petitioner bearing License No.



23150177 of 2019 has been suspended merely on account of lodging of FIR bearing Kudhni P.S. Case No. 583 of 2020 dated 08.09.2020 under Section 7 of the Essential Commodities Act.

The learned counsel for the petitioner has submitted that a bare perusal of Rule 28 of the Bihar Targeted PDS (Control) Order, 2016 would show that the PDS license can be suspended only in case the license holder is behind the bar or fugitive, however, in the present case neither the petitioner is behind the bar nor she is a fugitive inasmuch as she has already been granted bail. It has been further submitted that since the petitioner is neither a fugitive nor is behind bars, the PDS license of the shop of the petitioner could not have been suspended merely upon lodging of FIR. It is also the case of the petitioner that the final order is required to be passed within a period of 180 days, however, despite lapse of more than one year, no final order has been passed till date.

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

We have heard the learned counsel for the parties and considered the submissions made by them. We find that neither the petitioner is behind bars nor she has been declared a fugitive and instead she has already been granted bail. Hence,



this Court has no hesitation in coming to a finding that according to the provisions contained in Rule 28 of the Bihar Targeted PDS (Control) Order, 2016, the conditions required for suspension of the PDS license are clearly missing in the present case and moreover despite lapse of more than one year, the licensing authority has not bothered to pass the final order, hence the impugned order dated 12.09.2020 passed by the Sub Divisional Officer, West Muzaffapur is illegal, thus is quashed.

It is needless to state that the Sub Divisional Officer, West Muzaffapur would be free to take appropriate steps, in accordance with law.

The writ petition stands allowed.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

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