

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9220 of 2021

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Gopal Mandal S/O - Babulal Mandal Resident of Village - Gadi, PS- Chakai,
District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna.
2. The Principal Secretary Department of Food Civil Supplies, Govt. of Bihar, Patna.
3. Collector Jamui.
4. District Supply Officer Jamui.
5. S.D.O. Jamui.
6. Block Supply Officer Chakai, Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms.Shruti Sinha, Advocate
For the Respondent/s : Mr.Lalit Kishore (AG)

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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 22.11.2018 passed by the Sub-Divisional Officer, Jamui, whereby and whereunder the PDS license of the shop of the petitioner bearing Licensing No. 17 of 2016 has been suspended merely on account of lodging of FIR bearing Chakai P.S. Case No. 164 of 2018 dated 12.11.2018 under Sections 379 and 406 of the Indian Penal Code and 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 a fugitive, however, in the present case neither the petitioner is behind bars nor he is a fugitive, as is apparent from paragraph no. 6 of the writ petition wherein it has been stated that the petitioner has already been granted bail on 21.12.2019 by the learned S.D.J.M., Jamui. 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 an 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 three years, 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 the bar nor he has been declared a fugitive and on the contrary he has already been granted bail by the learned S.D.J.M., Jamui on 21.12.2019. 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 three years, the licensing authority has not bothered to pass the final order, hence the impugned order dated 22.11.2018 passed by the Sub Divisional Officer, Jamui is illegal, thus is quashed.

It is needless to state that the Sub Divisional Officer, Jamui 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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