

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9335 of 2021

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Kishuni Rai Son of Banaras Rai Resident of Village- Bhagwatpur, P.S.-
Taraiya, District- Saran (Chapra).

... .. Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate, Saran (Chapra).
3. The Sub-Divisional Officer, Marhawah, District- Saran (Chapra).
4. The B.D.O., Taraiya, District- Saran (Chapra).

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Kapil Deo Singh
For the Respondent/s : Mr.Lalit Kishore (Ag)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

2 11-02-2022 This matter has been taken up for hearing online
because of *COVID-19* pandemic restrictions.

The petitioner was holding a licence to run a fair price shop. His licence was suspended by an order dated 05.01.2020 passed by the Licensing Authority-cum-Sub Divisional Officer, Marhawah, Saran, in exercise of power under Rule 28 of Bihar Targetted Public Distribution System (Control) Order, 2016, since he was arrested in connection with a criminal case. This is not in dispute that the petitioner has been convicted in the said criminal case. He has, however, been allowed bail during the pendency of criminal appeal by this Court against the judgment



of conviction and sentence. The petitioner, in the aforesaid background, is seeking quashing of the order of the licensing authority, whereby the petitioner's licence was suspended.

In our view, there is no illegality in the order dated 15.01.2020 passed by the Sub Divisional Officer, whereby the petitioner's license was put under suspension as, admittedly, he was taken into custody in connection with a criminal case, invoking Rule 28 of the Control Order.

Learned counsel appearing on behalf of the petitioner has submitted that since the petitioner has been released on bail, his license should now be restored.

The said submission cannot be accepted by this Court in view of the provision under Rule 11(5) of the Control Order, which contemplates that a person finally convicted by the Court under the Essential Commodities Act or in any other criminal case shall not be allotted a fair price shop. Conviction in a criminal case is apparently a disqualification for maintaining fair price shop license. Further, Rule 29 of the Control Order lays down consequences of conviction of a licensee in a criminal case, which states that upon conviction, license of a licensee shall be cancelled by the licensing authority by a written order. The proviso to Rule 29 states that if a conviction



is annulled in an appeal or revision, the license shall be restored by the licensing authority, if such a licensee, within one month from the date of such annulment order is passed, makes a written representation to the licensing authority.

There is no clue as to whether in exercise of power under Rule 29 of the Control Order, the licensing authority has cancelled the petitioner's license.

In any view of the matter, we are not inclined to grant the relief as sought for by the petitioner seeking quashing of the order by which the petitioner's license was placed under suspension in exercise of power under Rule 28 of the Control Order.

This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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