

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5729 of 2022

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Visheshwar Prasad Son of Akalu Mahto Resident of Village- Balawapar
Nardiganj, P.S.- Nardiganj, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna.
2. The District Magistrate-cum-Collector, Nawada.
3. The Sub-Divisional Officer, Nawada Sadar.
4. The Block Supply Officer, Nardiganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akash Chaturvedi, Adv.
For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 21-07-2022

Heard Mr. Akash Chaturvedi, learned advocate for the
petitioner and Mr. Upendra Pratap Singh for the State.

The license of the petitioner was cancelled by the
licensing authority vide his order dated 19.02.2021, against which
order the petitioner had approached this Court in CWJC No. 16751
of 2021.

A learned Single Judge of this Court vide order dated
04.10.2021 found that the notice given to the petitioner before
cancelling his license under Section 28 of the Bihar Targeted PDS
(Control) Order, 2016 was defective inasmuch as it did not



indicate the proposed action against the petitioner in case his explanation was not found to be satisfactory.

For the aforesaid reason, the order of cancellation of license of the petitioner was set aside and a liberty was granted to to the licensing authority to proceed afresh in accordance with law.

Be it noted that the aforementioned proceeding was initiated against the petitioner for his having been made an accused in a criminal case involving the breach of Essential Commodities Act, 1955. In the aforesaid case, cognizance has been taken against the petitioner. This perhaps is the only ground on which the licensing authority has deemed it appropriate to cancel the license of the petitioner in a fresh proceeding.

The learned counsel for the petitioner has submitted that in case of any FIR being lodged against a licensee under the Essential Commodities Act, 1955 or any other criminal case and pursuant to the aforesaid prosecution, if he is sent to jail or goes fugitive, his license is required to be suspended and after serving show-cause notice to him in accordance with Civil Procedure Code and is to be given sufficient opportunity to present his case whereafter a lawful action could be taken within a period of 180 days, as far as possible.



Section 28 therefore mandates that in the event of the licensee either going to jail or going fugitive after the lodging of the criminal case against him, his license is mandatorily required to be suspended and after eliciting his response, a further action be taken against him within a period of 180 days.

In the first instance, because of the vagueness in the notice, the entire proceeding was found to have been vitiated by the learned Single Judge of this Court and thereafter a fresh proceeding was initiated against the petitioner. In the second instance, instead of assessing the charges against the petitioner and his response thereto, the only reason on which the decision of the licensing authority hinged was the factum of cognizance having been taken against him in the criminal case.

It appears and it has been argued that the learned licensing authority was referring to Section 29 of the Control Order, 1916 which provides for consequences of conviction. He further submits that even the provision contained in Section 29 of the Control Order, 2016 will not apply to the facts of the case of the petitioner.

Since the sole ground of cancellation of license of the petitioner is the taking of cognizance against him in the criminal



case, which is not the scheme of the Control Order, 2016, we have not been persuaded to sustain the aforesaid order.

The order dated 26.03.2022 passed by the Sub-Divisional Officer, Nawada Sadar is set aside.

The matter is remitted to the licensing authority to write out a fresh order after adverting to the grounds taken by the petitioner in the show-cause reply, which order shall be passed by by the licensing authority, within a period of 180 days of the receipt/production of a copy of this order.

The writ petition stands allowed to the extent indicated above.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2022
Transmission Date	

