

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3556 of 2021

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Bhagwat Ram @ Bhagavat Ram, Son of Late Dila Ram, Resident of Village-Pinjaur, Police Station-Parasbigha, District-Jehanabad.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The District Magistrate, Jehanabad.
3. The Sub-Divisional Officer-cum-Licensing Authority, Public Distribution System, Jehanabad.
4. The District Supply Officer, Jehanabad.
5. The Block Supply Officer, Jehanabad.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Prashant Kumar
For the Respondents : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 21-01-2022

This matter has been taken up for hearing online because of COVID-19 pandemic restrictions.

2. The petitioner is a P.D.S. dealer under Bihar Targetted Public Distribution System (Control) Order, 2016 ('Control Order' in short). Alleging irregularities committed by him in running of the fair price shop, the Supply Inspector, Jehanabad, instituted a criminal case giving rise to Parasbigha P.S. Case No. 58 of 2020 on 19.04.2020 for the offence punishable under Section 420 of the Indian Penal Code, Section 7 of Essential



Commodities Act and Section 53 of the Disaster Management Act.

The petitioner was taken into custody subsequently.

3. Rule 28 of the Control Order reads as under : -

“28. Actions to be taken against a licensee after a FIR lodged. - If an FIR is lodged against a licensee under the Essential commodities Act, 1955 or for any other criminal cases, and he is sent to jail or he goes fugitive, his license shall be suspended by the licensing authority with immediate effect, and after serving show cause notice upon him in accordance with Civil Procedure Code and giving him sufficient opportunity to present his case, a lawful action shall be taken within 180 days, as far as possible.”

4. The Sub-Divisional Officer-cum-Licensing Authority, Jehanabad, issued a show cause notice to the petitioner asking him to explain as to why the licence granted to him be not cancelled. Exercising power under Rule 28 of the Control order, the licensing authority placed the petitioner's licence under suspension, by the same order.

5. It is the petitioner's grievance that despite lapse of 180 days from the date with effect from which the petitioner's licence was placed under suspension because of lodging of the criminal case against him, no final order has been passed on the



proceeding initiated for cancellation of his licence. Referring to the said Rule 28 of the Control Order, learned counsel appearing on behalf of the petitioner has submitted that the respondents ought to have restored the license because no final order has been passed so far. He has further submitted that the petitioner has already submitted his explanation on 03.07.2020 in response to the show cause notice dated 21.04.2020.

6. The criminal case, instituted against the petitioner, is pending, is not in dispute.

7. Learned counsel for the petitioner has relied upon a Single Bench decision of this Court rendered on 22.03.2021 in C.W.J.C. No. 20312 of 2019 (*Hirday Narayan Singh vs. The State of Bihar and Others*), to contend that after lapse of 180 days from the date when the licence was placed under suspension, the licence ought to have been automatically restored by the competent authority and in no circumstance it could have been allowed to continue thereafter.

8. On careful examination of the provision under Rule 28 of the Control Order, we are of the view that the said provision does not contemplate automatic restoration of licence placed under suspension on account of pendency of a criminal case. Further, it does not stipulate that if no final order is passed on the proceeding



initiated for cancellation of licence, order of suspension shall become inoperative.

9. In such view of the matter, the Court is not convinced with the submission that the order suspending the petitioner's licence becomes vulnerable because no final order was passed after completion of 180 days. The provision requires action to be taken under the law. Action has already been initiated against the petitioner under the law by asking him to show cause as to why the licence may be cancelled.

10. Our attention has been drawn to a letter dated 09.12.2021 issued by the licensing authority to the petitioner, whereby the petitioner has been asked to submit his show cause reply as licensing authority was not satisfied with the explanation submitted by the petitioner in response to the show-cause notice for cancellation of licence. In response to the said communication dated 09.12.2021, the petitioner is said to have sent a communication dated 30.12.2021 addressed to the Sub-Divisional Officer-cum-Licensing Authority, Jehanabad, asking him not to pass any order in the proceeding for cancellation of licence because of pendency of this proceeding before this Court. The said representation, in our opinion, was inappropriate conduct on the part of the petitioner.



11. Considering the facts and circumstances, as noted above, we are not inclined to interfere with the impugned action. The respondents are, however, directed to pass a final order within two months from the date of receipt/production of a copy of this order, if no such order has already been passed.

12. This writ application stands dismissed with the aforesaid observations and direction.

13. There shall, however, be no order as to cost.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

Pawan/-

AFR/NAFR	NAFR
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