

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20774 of 2021

=====

Saryu Sao S/o Late Ganauri Sao Resident of Village- Bakhtiyarpur, P.S.-
Uphara, District- Aurangabad, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Aurangabad.
3. The Sub Divisional Officer, Daudnagar, Aurangabad.
4. The Block Supply Officer, Goh, Daudnagar, Aurangabad.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Preety Kunwar
For the Respondent/s : Mr.Arvind Ujjwal (Sc4)

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 11-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

“For quashing the Memo no.1313 dated 15.12.2020 passed by the S.D.O., Daudnagar whereby and whereunder the learned S.D.O., Daudnagar has cancelled the P.D.S. license No.3/G/1986 of the petitioner as well as appellate order passed by the District Magistrate, Aurangabad in Appeal No.42/2021 order dated 14-08-2021.”

It is submitted on behalf of learned counsel for the petitioner that petitioner is a PDS dealer for which he was granted licence and same was suspended by order dated

15.4.2020 (Annexure 4) under Clause 28 of the Bihar Targeted Public Distribution System (Control Order), 2016 on account of institution of FIR under Section 7 of the EC Act in which petitioner was granted anticipatory bail by this Hon'ble Court on 19.02.2021 in Cr. Misc. No.30747 of 2020 (Annexure 3).

In said order dated 15.4.2020 (Annexure 4) while suspending the licence of petitioner, petitioner was asked to file his reply with respect to allegations levelled against him, however, petitioner could not submit his reply with respect to said allegations, although the order was served upon the son of petitioner.

It is submitted on behalf of petitioner that pursuant to notice dated 1.4.2020 (Annexure 1), he had already submitted his reply dated 6.4.2020 explaining the circumstances under which, said irregularities were committed and thereafter his licence was suspended under Section 28 of the Control Order, 2016 after institution of FIR under Section 7 of the EC Act, in which, he was granted anticipatory bail by this Court. However, no further show cause was issued to the petitioner under Section 27 of the Control Order, 2016 for cancellation of licence for violation of any provision of the Order or failing to comply duties and responsibilities assigned to the licensee or

initiating action against a licensee under Section 25 of the Control Order.

After institution of FIR, a PDS licence can be suspended if the licensee is sent to jail or become fugitive but license can be cancelled under Section 29, if the licensee has been convicted by criminal court. However, in present case, neither petitioner was arrested nor he has been convicted nor declared fugitive, as such, there was no occasion of suspending or cancelling his licence. However, it was open for the authorities to proceed under Section 27 of the Control Order, 2016 for cancelling of licence for the reasons as enumerated under Section 27 or 25 of the Control Order, 2016.

In such view of the matter, the orders dated 15.12.2020 (Annexure 5), passed by Respondent No. 3, namely the Sub-divisional Officer, Daudnagar, Aurangabad and 14.08.2021 (Annexure 6) passed by the District Magistrate, Aurangabad in Appeal Case No. 42 of 2021 are quashed and set aside, with liberty to the petitioner to approach Respondent No. 3 afresh.

Petition is disposed of in the following terms:

(a) The petitioner shall make himself available before the Sub-divisional Officer, Daudnagar, Aurangabad on

07.03.2022;

(b) On the said date, the entire material shall be supplied to the petitioner;

(c) Within two weeks thereafter, petitioner shall file response, complete in all respects;

(d) Petitioner shall fully cooperate and not take any unnecessary adjournment;

(e) The officer shall pass an order assigning reasons within a period of three months thereafter;

(f) While considering such request, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

(g) Liberty reserved to the petitioner to challenge the order, should the need so arise subsequently.

The petition is disposed of in the aforesaid terms.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	