

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21367 of 2021

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Satyanarayan Singh Son of Suryadev Singh Resident of Village-Mushahari,
P.O. Arvind Nagar, P.S. Dariyapur, District-Saran at Chapra.

... .. Petitioner.

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Food and Consumer Protection Department
Government of Bihar, Patna.
3. The Divisional Commissioner, Saran Division, Chapra.
4. The District Magistrate, Saran at Chapra.
5. The Sub-Divisional Officer, Sonapur, District-Saran at Chapra.
6. The Block Supply Officer, Dariyapur, District-Saran at Chapra.

... .. Respondents.

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Appearance :

For the Petitioner	:	Mr. S.B.K. Mangalam, Advocate
		Mr. Awnish Kumar, Advocate
For the Respondents	:	Mr. Anisul Haque, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

3 06-04-2022 Heard Mr. S.B.K. Mangalam, learned Advocate

for the petitioner and Mr. Anisul Haque for the State.

The petitioner has approached this Court

against the action of the respondents in stopping the

allotment of food grains to him in his capacity as PDS



licensee; tagging his consumers to another PDS dealer and taking away the E-POS machine without initiating any proceeding against him.

This Court has directed the State to file counter affidavit, which has now been filed. Along with the affidavit, an order of suspension of licence has also been annexed.

It appears from the aforesaid order dated 30.07.2021 that on account of the petitioner having been made accused in a case involving breach of E.C. Act, his licence has been suspended under Section 28 (1) of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as 'the Control Order of 2016) and notice has been issued to respond to the same.

Learned counsel for the petitioner has drawn the attention of this Court to the manner in which the notice has been sought to be served upon the petitioner. The petitioner is stated to have been granted bail in the



aforesaid criminal case on 30.07.2021 and, therefore, it could be presumed that there was any necessity for him to have run away or of not having accepted the notice. He further submits that the process server took away the notice and did not affix it on his house when the same was allegedly not received by the family members.

The correctness of the aforesaid endorsement of the process server has been doubted by the learned counsel for the petitioner who submits that the order of suspension of licence of the petitioner is ante-dated and only for the purposes of giving a colour of regular procedure having been followed in this case. He has also referred to Annexure-P-5, which is his endorsement of taking away of E-POS machine on 27.08.2021.

Learned counsel for the petitioner, therefore, submits that all such action was taken against the petitioner without initiating any proceeding under Section 28(1) of the Control Order of 2016.

Mr. Haque, on the other hand, has submitted



that such statement is based on presumption and the petitioner's licence was suspended under Section 28(1) of the Control Order of 2016 and only after such order, the consequential order of tagging the beneficiaries of the petitioner to other PDS shop dealer was passed. The E-POS machine has been taken away from the premises of the shop of the petitioner in his presence which stands admitted by the learned counsel for the petitioner. He, therefore, submits that proper procedure has been followed. However, there is no explanation for not taking a lawful action within 180 days, as far as possible, under Section 28 of the Control Order of 2016.

Learned counsel for the petitioner has submitted that the lawful action contemplates a final order with respect to the licence of the petitioner and such order should have been passed within the period so prescribed under the Control Order of 2016.

In response to the aforesaid statement, the counsel for the State has submitted that the provisions



contained in Section 28 of the Control Order of 2016 specifies that such outer limit of 180 days is to be followed normally except under special circumstances as it is an advisory under the Rule that as far as possible, the outer limit of 180 days should be followed.

For the argument raised by learned counsel for the State, no ground has been given by him to justify the authorities not taking the final decision in the matter within the stipulated period.

Under the aforesaid circumstances, we direct the licensing authority to take a final decision in the matter after giving reasonable opportunity to the petitioner to furnish his cause within a period of sixty days from the date of receipt/production of a copy of this order. There should not be any deviation from the timeline provided in this order or else an adverse view shall be taken. In case no final order is passed within the aforesaid period, it would be open for the petitioner to approach this Court for necessary corrective action.



With the aforesaid observation and direction,
the petition stands disposed of.

(Ashutosh Kumar, J.)

(Anjani Kumar Sharan, J.)

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