

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4879 of 2024

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Arun Kumar Sharma, Male, aged about 62 years, S/o Late Banwari Lal Sharma Resident of Teliyapatti, P.S.- Motihari Town, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food, Civil Supplies and Consumer Protection Department, Government of Bihar, Patna.
2. The Principal Secretary, Food, Civil Supplies and Consumer Protection Department, Government of Bihar, Patna.
3. The District Magistrate, East Champaran, Motihari.
4. The District Supply Officer, East Champaran, Motihari.
5. The Sub-Divisional Officer, Sadar, Motihari.
6. The Block Supply Officer, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sangeet Deokuliar, Advocate.

For the Respondent/s : Mr. Standing Counsel 21.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

6 22-11-2024 Heard learned counsel for the parties.

2. The present Writ Petition has been filled for the following reliefs:-

“(i)...for quashing and setting aside of the office order contained in Memo No. 2984 dated 21.11.2023 issued by the Sub-Divisional Officer, Sadar, Motihari whereby the petitioner has been denied restoration of his license of PDS distributorship bearing No. 44/08 (FPS Code 120400600350) till the acquittal of the petitioner from the criminal case, by the competent Court.

(ii) For issuing direction to the respondent authorities to restore the license allotted to the petitioner which has been suspended on 02.12.2022 vide Memo No. 612 issued by the Sub Divisional Officer, Sadar, Motihari.

(iii) For a direction to the respondent authorities to hand over the e-POS machine allotted to the petitioner with his license after marking zero and allowing him to receive the food grains after



marking zero on his e-POS machine in the facts and circumstances of this case.

(iv) For a direction to conduct an enquiry by any competent and independent investigation agency in the matter of large scale scam and irregularity being committed by the concerned authorities in connivance with food grain mafia by black marketing of food grains meant for public supply in the facts and circumstances of this case.

(v) For a direction to take strict actions against the responsible officers indulged in the large scale scam of misappropriation and black marketing of control items and victimization of the licensees like the petitioner.”

3. Learned counsel for the petitioner submits that the solitary ground given in the show cause notice dated 21.11.2022 vide Memo No. 589 for cancellation of the PDS licence of the petitioner was that an First Information Report (F.I.R.) bearing Motihari Town P. S. Case No. 916 of 2022 had been instituted against the petitioner. Similarly, the impugned order has been passed on the sole ground of institution of the aforesaid FIR against the petitioner.

4. Learned counsel for the respondents appears and has been heard.

5. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. A perusal of the PDS (Control) Order, 2001 read with Rule 7 of the notification in G.S.R. No. 1 dated 20.02.2007 makes it clear that mere institution of a First Information Report would not constitute



a valid ground for suspension of the PDS licence. This view finds support from the decision of this Court in Umesh Ram vs. The State of Bihar and others, AIR 2014 Patna 113 as well.

6. In view of the above, the impugned order dated 21.11.2023 passed by the Sub-Divisional Officer, Sadar, Motihari is set aside.

7. Needless to say, supplies to the petitioner shall be restored without delay.

8. It is made clear that, in case, the petitioner is subsequently convicted in the criminal case instituted against him, the authorities are free to take necessary action in accordance with law.

9. However, this order will not preclude the authorities from taking action if it is found that the petitioner has violated any other condition of the provisions of the Bihar Targeted Public Distribution System (Control) order strictly in accordance with law.

10. With the above directions, the Writ Petition stands **allowed** to the extent indicated.

(A. Abhishek Reddy, J)

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