

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6876 of 2023

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Anutha Baitha Son of Late Ram Swaroop Baitha Resident of Village Dekuli,
Dharampur, P.O.-Kamarauli, P.S. Piprahi District Sheohar ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of India, Patna.
 2. The Principal Secretary, Food and Consumer Protection Department, Government of India, Patna.
 3. The District Magistrate, Sheohar.
 4. The Sub Divisional Officer, Sheohar.
 5. The District Supply Officer, Sheohar.
 6. The Block Supply Officer, Piprahi. ... Respondents
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Appearance :

For the Petitioner : Mr.Suraj Samdarshi & Rohit Singh, Advs.
For the Respondents : Mr.S. Raza Ahmad (Aag5)

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

14 11-07-2024 Heard the parties.

2. The present writ petition has been filed for the following relief(s) :

i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing memo no. 685 dated 19.11.2022 issued by the Respondent Sub Divisional Officer, Sheohar whereby and where under Petitioner's License no 33/93 issued under the public distribution system for Panchayat - Parsoni Baiz, Block - Pihprahi has been cancelled in violation of the provisions of Bihar Targeted Public Distribution System (Control), Order 2016.

ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondent to allow the Petitioner to run the fair



price shop under the public distribution system in panchayat Pihprahi. Parsoni Baiz, Block 3

iii) This Hon'ble Court may adjudicate and hold that the action of Respondent in cancelling the PDS License of the Petitioner is an act of mala fide and arbitrary exercise of power since the Petitioner has neither violated any terms of the license or any other direction of the government nor has committed any act as enumerated in Clause 25 of the Bihar Targeted Public Distribution System (Control), Order 2016.

iv) This Hon'ble Court may further adjudicate and hold that an order of cancellation of license under Clause 28 of the Bihar Targeted Public Distribution System (Control), Order 2016 has to necessarily be passed within 180 days of suspension of license.

v) This Hon'ble Court may further adjudicate and hold that the action of the Respondent in suspending the PDS license of the petitioner merely on account of registration of Piprahi P.S. Case No. 104/2022 and consequent cancellation of the PDS license is bad in the eyes of law since Clause 25 and 28 of the Bihar Targeted Public Distribution System (Control), Order 2016 do not contemplate suspension and cancellation of PDS license merely for registration of FIR.

vi) This Hon'ble Court may further adjudicate and hold that pendency of criminal case cannot be a ground for cancellation of a PDS license under the Bihar Targeted Public Distribution System (Control), Order 2016.



vii) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the solitary ground given in the Memo No. 210, dated 21.04.2022, for cancelling the PDS licence of the petitioner was that an First Information Report (F.I.R.) bearing Piprahi P.S. Case No. 104 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 cancellation 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 Memo No. 685, dated 19.11.2022, is hereby quashed.



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, thereafter, the authorities are free to take necessary action in accordance with law.

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

(A. Abhishek Reddy , J)

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