

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7688 of 2024

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Mobina Begam Wife of Nesar Ahmad, Resident of village- Narsingh Patti Baldiha, Panchayat- Manorpur Jhakhri, Block- Amnaur, P.O.- Baldiha, P.S.- Amnaur, District- Saran (Chapra).

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Food and Consumer Protection, Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The Commissioner, Saran Division, Chapra.
4. The District Magistrate, Saran (Chapra).
5. The Sub-Divisional Officer, Marhaura, Saran (Chapra).
6. The Additional Sub-Divisional Officer, Marhaura, Saran (Chapra).
7. The Block Supply Officer, Amnaur, Saran (Chapra).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Kishore Singh
For the Respondent/s : Government Pleader 11

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

2 15-05-2024 Heard learned counsel for the parties.

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

“I. To quash the Order dated 22.04.2020 contained in Memo No. 09 by which the petitioner's PDS License bearing No. 25/16 was suspended by the licensing authority in exercise of power conferred under Clause 28 of the Bihar Targeted P.D.S. (Control) Order, 2016 on the ground of registration of First Information Report *vide* Amnaur P.S. Case 132/20 against the Petitioner.

II. To quash the subsequent consequential Order dated 27.09.2020 contained in Memo No. 3003 of the Sub-



Divisional Officer, Marhaura, Saran (Chapra) by which licensing authority without dealing with the defense put by the Petitioner erroneously held the charges proved against her and cancelled Petitioner's PDS license bearing No. 25/16 to run a fair price shop under the public distribution system.

III. To command and direct the Respondents to restore Petitioner's License for running a PDS Shop with immediate effect.

IV. Any other relief/relief's to which the Petitioner may be found entitled in view of the facts and circumstances discussed herein below.

3. Learned counsel for the petitioner submits that the solitary ground given in the show cause notice dated 15.05.2020 *vide* Memo No. 1750 seeking to suspend the PDS license of the petitioner was that a First Information Report (F.I.R.) bearing Amnour P.S. Case No. 132 of 2020 had been instituted against the petitioner. Subsequently the authority has cancelled the license of the petitioner on the very same set of facts.

4. Learned counsel for the petitioner has stated that the authority concerned has passed the order of suspension on 22.04.2020 i.e., immediately after lodging of the FIR on 21.04.2022 and thereafter passed the final order of cancellation on 27.09.2020. Learned counsel has stated that by the time, the final order was passed, the petitioner was already granted bail by this Hon'ble Court. Further, it is stated that the said order is



passed contrary to the provisions of the control order i.e., the final order ought to have been passed within a period of 180 days. Learned counsel has stated that the authority cannot on its own declare the petitioner as fugitive and pass the impugned order of cancellation.

5. Learned counsel has relied on the judgment of the Hon'ble Supreme Court in the case of *State of Punjab v. Devinder Pal Singh Bhullar, (2011) 14 SCC 770* to buttress his contentions.

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

7. 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 the First Information Report would not constitute a valid ground for cancellation of the PDS license. 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.

8. In view of the above, the impugned order dated 22.04.2020 passed by the Sub Divisional Officer, Marhaura,



Saran (Chapra) is set aside.

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

10. 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.

11. With the above directions, the writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

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