

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9891 of 2024

Mukesh Kumar Singh @ Mukesh Kumar Son of- Ramlakhan Singh Resident of village- 250, Purani Barh, Shiv Puri Bin Toli, Barh, P.S.- Barh, District- Patna Bihar. ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Sub Divisional Officer, Barh, District- Patna.
3. The Block Supply Officer, Panchayat- Nawada, Block- Barh.
4. The Sub-Inspector-cum-I.O. Barh, Patna. ... Respondents

Appearance :

For the Petitioner : Ms Diksha Kumari, Adv.
For the Respondents : Mr. Government Pleader (19)

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

2 26-10-2024 Heard the parties.

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

“..... for setting aside the order dated 13.04.2024 passed by the Learned Sub-Divisional Officer, Barh, Patna whereby and where under the Public Distribution License of the Petitioner bearing License No.82/2016 has been suspended on the ground of institution of F.L.R. being Barh P.S. Case no. 254/2024 under section 264, 265, 266 of the I.P.C. and Section 7 of the E.C. Act dated 10.04.2024 which is totally non-est and erroneous grounds in completely in a mechanical manner without even considering the reply of the petitioner which is the complete violation of Principle of Natural Justice.”

3. Learned counsel for the petitioner has assailed the



impugned order passed by the Sub Divisional Officer, Barh, Patna (Respondent No. 2) on two grounds, (1) that the same is violative of Clause 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as, “the Control Order, 2016”) and (2) further that the suspension of the license is only on the basis of the FIR. Learned counsel has relied on the judgments of the this Court passed in C.W.J.C. No. 16733 of 2016, dated 07.03.2017 and C.W.J.C. No. 8168 of 2023 in support of his case.

4. Admittedly, in the present case the license of the petitioner was suspended on 13th April, 2024, and till date no final orders have been passed by the authority.

5. A perusal of Clause 28 of the Control Order, 2016, reveals that the license of the dealer can be suspended only under two circumstances (1) that the license holder is a fugitive and (2) that he is behind the bars, in the present case both the conditions are missing. Further it is to be noted that even though 180 days have elapsed, till date the authorities have not passed the final order, it is well settled law that the suspension cannot be continued after lapse of 180 days.

6. Having regard to the judgments of this Court passed in C.W.J.C. No. 16733 of 2016, dated 07.03.2017 and



C.W.J.C. No. 8168 of 2023 wherein this Court has held as under:

“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.”

7. Having regard to the above, the impugned order dated 13.04.2024 is set aside. The license of the petitioner is directed to be restored. The authorities are further directed to restore the supply of the food grains immediately so as to enable the petitioner to distribute the grains to the consumers.

8. With the above directions, the Writ Petition is **allowed** to the extent indicated.

(A. Abhishek Reddy , J)

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