

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11305 of 2022

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Dilip Kumar Choudhary, Gender-Male, aged about 65 years, Son of Deep Narayan Choudhary, Resident of Purani Chowk, Kahalgaon, P.S.- Kahalgaon, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Bhagalpur, District- Bhagalpur.
3. The Licensing Authority-Cum-Sub-Divisional Officer, Kahalgaon, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Labh, Adv.
For the Respondent/s : Mr. S. Raza Ahmad (AAG 5)

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

3 02-04-2024 Heard learned counsel for the parties.

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

“...for issuance of an appropriate writ, order or direction for quashing the order passed by the Licensing Authority-cum-Sub-Divisional Officer, Kahalgaon vide Memo No. 195 dated 25.02.2022 whereby and whereunder license of the petitioner’s PDS shop bearing No. 111/16 has been suspended with immediate effect only on a sole ground that F.I.R. has been lodged against the petitioner and consumers of the petitioner’s shop has been tagged with another PDS shop namely Prem Kumar Choudhary as well as quashing the order passed by the Licensing Authority-cum-Sub-Divisional Officer, Kahalgaon vide Memo No. 1021 dated 28.06.2022 whereby and whereunder license of



the petitioner's PDS shop bearing No. 111/16 has been cancelled contained in Annexure-1(series) and further for direction to the licensing authority to restore the petitioner's license as before and to make the allotment for the same."

3. Learned counsel for the petitioner submits that the solitary ground given in the show cause notice dated 03.03.2022 vide Memo No.107 for cancellation of the PDS licence of the petitioner was that First Information Report (F.I.R.) bearing Kahalgaon P. S. Case No. 138/22 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



25.02.2022 in Memo No. 195 and order dated 28.06.2022 in Memo No. 1021 passed by the Licensing Authority-cum-Sub-Divisional Officer, Kahalgaon are 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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