

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10591 of 2024

1. Sunari Devi, Wife of Lalan Prasad, Resident of Village- Khalwa Khap Tola, Ward No. 01, Nautan, District- West Champaran, Bihar-845438.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The Collector, Muzaffarpur.
4. The Additional District Magistrate, West Champaran, Bettiah cum Appellate Authority.
5. The Sub-Divisional Officer cum Licensing Officer, Bettiah (Sadar), West Champaran.
6. The Block Supply Officer, Nautan, West Champaran, Bettiah.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, Adv.
For the Respondent/s : Mr. Government Advocate (13)

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

2 19-08-2024 Heard learned counsel for the parties.

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

- “(i) To quash the order of suspension of license contained in Memo No. 498 dated 15.04.2021 issued under Clause-28 of the Targeted Control Order, 2016 only on the ground of judgment of Nautan PS Case No. 145/2021 dated 08.04.2021.
- (ii) Issuance of order of cancellation contained in Memo No. 1072 dated 30.07.2021 passed in



exercise of power under Clause-27 of the Targeted Control Order, 2016 in continuation with the earlier order passed under Clause- 28 of the Control Order, 2016.

(iii) Issuance of declaration that the order of cancellation of PDS license after suspension of the same under Clause- 28 of the Control Order, 2016 cannot be passed under Clause-27 of the Control Order.

(iv) Issuance of further declaration that the entire exercise including Show Cause Notice issued under Clause-27 vide Show Cause Notices contained in Memo No. Memo No. 72 dated 14.01.2021 and Memo No. 1039 dated 23.07.2021 became redundant, infructuous and inoperative in view of the license of the Petitioner suspended under Clause-28.

(v) For quashing the Appellate Order dated 20.09.2024 passed in the Case No. CRM-466/2021-22 on the ground that the illegal original order of cancellation renders the Appellate orders as without jurisdiction.

(vi) To hold and declare that the Authorities cannot conduct parallel proceeding under Clause-27 and 28 which are different and independent provisions hence the entire action is bad apart from the illegal exercise of jurisdiction to suspend despite the bail granted by the Hon'ble Court in Cr. Misc. 48151 of 2021.

(vii) Issuance of further declaration that the



present is covered by the order dated 15.01.2024 passed in C.W.J.C. No. 12527 of 2023 holding that cancellation of PDS license on the ground of institution of FIR is bad.”

3. Learned counsel for the petitioner submits that the solitary ground given in the show cause notice dated 14.01.2021 seeking to suspend the PDS licence of the petitioner was that an First Information Report (F.I.R.) bearing Nautan P.S. Case No. 145 of 2021 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 15.04.2022 i.e. immediately after the lodging of FIR on 08.04.2021 and thereafter passed the final order of cancellation on 30.07.2021. Learned counsel has stated that by the time, the final order was passed, the petitioner was already granted anticipatory bail by this Hon'ble Court vide order dated 01.04.2022 passed in Cr. Misc. No. 48151 of 2021. 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 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.

8. In view of the above, the impugned order dated 30.07.2021 passed by the Sub Divisional Officer, Bettiah, (Sadar) as well as the order dated 20.01.2024 passed by the appellate authority are 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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