

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12527 of 2023

=====

Madan Ram Son of Raghunath Ram, resident of village - Lakhna, Panchayat-
Manorpur Jhakhri, Block - Amnour, P.S. Amnour 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 Block Development Officer, Amnour, Saran (Chapra).
7. The Block Supply Officer, Amnour, Saran (Chapra).

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ram Kishore Singh, Adv.
For the Respondent/s : Mr. S. Raza Ahmad (Aag5)

=====

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

3 15-01-2024 Heard learned counsel for the parties.

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

*“To quash the Order dated
09.02.2022 contained in Memo No. 295
of the Sub-Divisional Officer, Marhaura,
Saran (Chapra) passed in Case No.
01/2022 by which the Petitioner’s PDS
License bearing No. 75/16 has been
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 Amnour
P.S. Case 15/22 against the Petitioner.*

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

3. Learned counsel for the petitioner submits that the solitary ground given in the show cause notice dated 08.01.2022 vide Memo No. 45 seeking to suspend the PDS licence of the petitioner was that an First Information Report (F.I.R.) bearing Amnour P.S. Case No. 15 of 2022 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 09.02.2022 i.e. immediately after the lodging of FIR on 19.01.2022 and thereafter passed the final order cancellation on 26.10.2023. 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 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 09.02.2022 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)

Gauravkr/-

U			
---	--	--	--

