

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24140 of 2018

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Mithilesh Tiwari @ Mithilesh Tiwari, Son of Mundrika Tiwari, Resident of
Village- Bindhua, P.S.- Imamganj, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumers Protection, Government of Bihar, Patna
2. The District Magistrate, Gaya
3. The Sub-Divisional Officer, Sherghati, Gaya
4. The Block Supply Officer, Sherghati, Gaya
5. The Block Development Officer, Imamganj, District- Gaya
6. The Circle Officer, Imamganj, District- Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh, Adv
For the Respondent/s : Mr.S.Raza Ahmad, Adv

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

2 19-01-2024 Heard learned counsel for the parties.

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

“.....for issuance of appropriate writ(s), direction(s) for quashing of the order dated 24.02.2018 passed in cancellation Supply Case No.-25/2018 passed by the Sub-Divisional Officer, Sherghati, Gaya (Respondent No.-3), whereby and whereunder, the Licence No.-84/2007 and Licence No.-05/2009 of the petitioner for his Public Distribution System for Village Bindhus in Gram Panchayat-Naudiha under Imamganj



Block in District-Gaya has been cancelled.

Further the Respondents be directed to re-store the said Licence No.-84/2007 and Licence No. 05/2009 of the petitioner for his Public Distribution System with immediate effect. So, that supplies to him be restored.”

3. Learned counsel for the petitioner submits that on 04.08.2017, the Block Supply Officer, Imamganj has lodged the FIR bearing Imamganj P.S. Case No. 132 of 2017 against the petitioner under Section 7 of the Essential Commodities Act showing the illegality in the PDS shop of the petitioner. Learned counsel has stated that no show cause notice has been issued and the licence of the petitioner has been cancelled only on the ground of lodging the FIR. Similarly, the impugned order dated 24.02.2018 has been passed by the Sub-Divisional Officer, Sherghati, Gaya 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 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.

6. In view of the above, the impugned order dated 24.02.2018 (Annexure-1) is 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, thereafter, the authorities are free to take necessary action in accordance with law.

9. With the above directions, the Writ Petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

Bhardwaj/-

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