

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) 711 of 2023**

Praktan Sainik Consumers Cooperative Society Limited

--- Petitioner(s)

Versus

State of Tripura and 5 others

---Respondent(s)

For Petitioner(s)	:	Mr. P. Roy Barman, Sr. Advocate. Mr. S. Bhattacharjee, Advocate
For Respondent(s)	:	Mr. Kohinoor N. Bhattacharya, G.A. Ms. R. Debbarma, Advocate

HON'BLE MR. JUSTICE T. AMARNATH GOUD

FINAL ORDER

12.12.2023

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the petitioner. Also heard Mr. Kohinoor N. Bhattacharya, learned G.A. assisted by Ms. R. Debbarma, advocate representing the State.

[2] This writ petition has been filed under Article 226 of the Constitution of India for quashing and cancelling the letter dated 04.11.2023 issued by the Addl. Secretary & Director, Food Civil Suppliers & Consumer Affairs, Government of Tripura and also for quashing and cancelling the impugned Memorandum dated 07.11.2023 issued by the Sub Divisional Magistrate, Kailashahar, Unakoti, Tripura with a direction to the respondents

Nos.1 to 5 to restore the petitioner's position as nominee for carriage and distribution of PDS Wholemeal Atta for Kailashahar Sub Division.

[3] Brief facts, leading to this case are that the petitioner is a society registered under Bombay Co-operative Societies Act of 1925 as extended to the Union Territory of Tripura. The Registrar of Cooperative Societies, Government of Tripura, vide certificate of Registration No.815 of 1972 certified that pursuant to the Bombay Co-operative Societies Act, 1925 as extended to Tripura, Praktan Sainik Consumer Co-operative Society Ltd. has been registered as a cooperative society with limited liability under the title of the "Praktan Sainik Consumer Co-operative Society Ltd.". The certificate was issued on 14.12.1973. On the strength of the order dated 01.09.2018 passed by the SDM, Kailashahar, the petitioner started supplying Wholemeal Atta to Fair Price Shops ('FP Shops' for short) of Kailashahar after taking delivery of wholemeal atta from Tripura Flour Mills, Dharmanagar, as per supply orders, issued by the SDM, Kailashahar. The petitioner was appointed as the nominee and continued the service under the official respondents w.e.f. 01.09.2018 to 07.11.2023, petitioner. The Addl. Secretary & Director, FCS & CA, Tripura by letter dated 04.11.2023 communicated to the SDM, Kailashahar, to convey the approval given for appointment of Chantail Pacs as the Sub Divisional Nominee for lifting and distribution of PDS Atta under Kailashahar Sub Division, replacing the existing nominee "Praktan Sainik Consumer Co-operative Society Ltd.", i.e., the petitioner herein. By the said letter, it was further conveyed, that new Sub Divisional Nominee, shall start lifting and distribution work, w.e.f. the allocation month of November, 2023 by maintaining prescribed terms & conditions and nominee shall be entitled to get TC & DC as per existing approved rate of the department. Thereafter, in terms of the aforesaid

impugned letter dated 04.11.2023, the SDM, Kailashahar, issued the impugned Memorandum dated 07.11.2023, by appointing Chantail PACS Ltd., as Sub-Divisional nominee for lifting and distribution of PDS Atta under Kailashahar Sub Division, replacing the existing nominee "Praktan Sainik Consumer Co-operative Society Ltd. i.e., the petitioner herein. According to the petitioner, prior to issuance of the aforesaid impugned orders, dated 04.11.2023 & 07.11.2023 respectively, no show cause notice has been issued to the petitioner asking for reason as to why the petitioner would not be replaced and in lieu of the petitioner someone else, i.e., the respondent No.6 herein, will not be appointed as the Sub Divisional Nominee for lifting and distribution of PDS Atta under Kailashahar Sub Division. By way of filing this writ petition, petitioner side also opined that the above mentioned impugned orders do not reveal any explicit or implicit reason for replacing the petitioner and appointing the Chantail PACS Ltd., i.e. Respondent No.6 herein, in place of the Petitioner.

[4] Being aggrieved, the petitioner has preferred the instant writ petition seeking the following reliefs:

"(i) Issue rule upon the respondents to show cause as to why a writ in the nature of mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby quashing and cancelling the impugned letter dated, 04.11.2023, issued by the Addl. Secretary & Director, Food Civil Suppliers & Consumer Affairs, Govt. of Tripura.

(ii) Issue rule upon the respondents to show cause as to why a writ in the nature of mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby quashing and cancelling the impugned memorandum, dated, 07.11.2023, issued by the Sub Divisional Magistrate, Kailasahar, Unakoti, Tripura.

(iii) Issue rule upon the respondents to show cause as to why a writ in the nature of mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the respondents Nos.1 to 5 to restore the petitioner's position as nominee for carriage & distribution of PDS Wholemeal Atta for Kailashahar Sub Division.

(iv) Pass an interim order whereby directing the official respondents to restrain the respondent No-6 from acting in furtherance of the impugned orders, dated, 04.11.2023 & 07.11.2023, respectively, till disposal of the instant writ petition."

[5] Mr. P. Roy Barman, learned senior counsel appearing for the petitioner submits that the impugned orders dated 04.11.2023 & 07.11.2023 passed by the official respondents do not reveal any reason for replacing the petitioner and appointing the respondent No.6 in place of the petitioner. He further contends that the aforesaid impugned orders suffer from violation of principle of natural justice as without any show cause notice, the status of the petitioner had been taken away by issuing the above referred impugned orders. Learned senior counsel, therefore, urges before this Court to quash the aforesaid impugned orders passed by the respondents No.3 & 4 respectively directing the official respondents to restore the petitioner's position as nominee for carriage & distribution of PDS Wholemeal Atta for Kailashahar Sub Division.

[6] Mr. Kohinoor N. Bhattacharya, learned G.A. on the other hand submits that the petitioner was appointed as the nominee for carriage & distribution of PDS Wholemeal Atta for Kailashahar Sub-Division provisionally and prior to formal engagement, he submitted a written undertaking in respect to compliance of terms & conditions framed by the department. Learned G.A., therefore, urges before this Court to dismiss the instant petition filed by the petitioner.

[7] Heard learned counsel representing the parties. Perused the record.

[8] Having considered the submissions made by the learned counsel representing the parties and on perusal of material evidence on record, this Court is of the opinion that as proceedings dated August 16, 2018 only an interim arrangement by way of a provisional mode was made appointing the petitioner for supplying of PDS wholemeal ata for Kailashahar Sub-Division. Thereafter, by proceedings dated 07.11.2023, which is impugned, the petitioner has been replaced by respondent No.6.

Nowhere in the record placed before this Court, it is found that the Constitutional Rights under Article 19 have been parted by the respondents to the petitioner. Since there is no infringement of the legitimate and fundamental rights of the petitioner, this Court feels that the writ petition is devoid of merit and the action of the respondents cannot be defined faulty. Since the petitioner was doing distribution as an ad-hoc arrangement fully knowing well, the question of allotment of the supply and distribution to respondent No.6 without notice to the petitioner is not violation of any principle of natural justice as he is not entitled for such notice and there cannot be any legitimate expectation.

In terms of the above observations, the present case in hand is dismissed as devoid of merit and accordingly the same is disposed of. Miscellaneous application(s) pending, if any, shall also stand closed.

JUDGE



Sabyasachi G.

**SABYASACHI
GHOSH**

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