

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14558 of 2015

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Ramashis Yadav, S/o Late Chhitani Yadav, resident of Village-
Lachhmaniya, P.S.- Kajra, District- Lakhisarai.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Lakhisarai.
3. The District Supply Officer, Lakhisarai.
4. The Sub-Divisional Officer, Lakhisarai.
5. The Block Supply Officer, Suryagarha, District- Lakhisarai.
6. The District Co-operative Officer, Lakhisarai.
7. Shrawan Prasad Verma, S/o not known, the Chairman, Budhauili Bankar PACCS, Suryagarha Block, District- Lakhisarai.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Jha

For the Respondent/s : Mr. Avinash Kumar

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

2 23-09-2015

Heard learned counsel for the petitioner and the State.

The petitioner prays for quashing Memo No. 440, dated 17.07.2015, whereby the Sub-Divisional Officer, Lakhisarai accepted the proposal of Badhauili Bankar Primary Agriculture Credit Co-operative Society and authorized it to run Fair Price Shop under P.D.S. system.

The petitioner submits that the State Government vide 2011 amendment has substituted para 2.4 of 2007 Order and has provided that P.D.S. license shall be issued in favour of the following institutions only, namely, PACCS, Co-operative Society, Ex-Army Co-operative Society, Consumer Society store

and Woman Co-operative Society. The amendment obviously excluded the individuals from consideration. The notification incorporating the amendment is annexed as Annexure-3.

However, the said Amendment has been set aside, as violative of Articles 14 and 19(1)(g) of the Constitution, by order dated 20.12.2013 passed by a Division Bench of this Court in C.W.J.C. No. 15157 of 2011, heard analogous with other cases. On this basis, learned counsel prays that allotment of P.D.S. shop to respondent no.7 be set aside.

It is relevant to state that the main challenge in the writ application was mainly against exclusion of the individuals for grant of license for P.D.S. shop. The Division Bench observed that exclusion of individual for grant of P.D.S. license under 2007 Orders is not tenable. Thus para 3 of the impugned notification dated 23.06.2011 excluding the individuals and substituting it by other entities mentioned therein, was quashed. The Division Bench order did not nullify the license granted to PACCS etc. in the interregnum period. The order of the Division Bench was to the effect that the absence of facts and figures, the exclusion of individuals were not justifiable.

The petitioner has already filed a representation before the District Magistrate, the latter would dispose of the

representation within three months from the date of receipt /
production of a copy of this order, without being prejudiced.

This application stands allowed to the extent
mentioned above.

(Samarendra Pratap Singh, J.)

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