

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.445 of 2015

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1. Sonelal Sah son of Late Sita Ram Sah, Resident of Village/Mohalla-
Station Choke, Gandak Road, Bettiah, West Champaran, P.S.- Bettiah
Town, District- Bettiah

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, West Champaran, Bettiah
3. The S.D.O. Sadar, Bettiah
4. The C.O. cum Block Supply Officer, Bettiah Dist- Bettiah
5. Shiv Shankar Prasad, son of Late Dukh Haran Prasad, Resident of
Village- Station Chowk, Pokhara, Bettiah, P.S.-Dist-
Bettiah (West Champaran) P.S.- Bettiah Town, District- Bettiah

.... Respondent/s

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With

Civil Writ Jurisdiction Case No.2795 of 2015

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1. Mainejar Prasad Kushwaha S/o Late Sukhal Prasad, R/o Village + P.O.-
Ramnagar Bankat, P.S.- Majhaulia, District- West Champaran

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food
and Consumer Protection Affairs, Govt. of Bihar, Patna
2. The Secretary, Co-operative Societies, Government of Bihar, Patna
3. The District Magistrate, West Champaran, Bettiah
4. The Sub-Divisional Officer, West Champaran, Bettiah
5. The District Supply Officer, West Champaran, Bettiah
6. The Block Supply Officer, Dist.- West Champaran, Bettiah
7. The District Co-operative Officer, West Champaran, Bettiah
8. The Chairman, Primary Agriculture Credit Society, Lal Saraiya, Block-
Majhaulia, District- West Champaran, Bettiah
9. The Chairman, Primary Agriculture Credit Society, Ramnagar, Bankat,
Block- Majhaulia, District- West Champaran, Bettiah

.... Respondent/s

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Appearance :

(In CWJC No.445 of 2015)

For the Petitioner/s : Mr. Nitya Nand Neeraj, Adv.
Ms. Rashmi Kumari Mandilwar, Adv.
For the Respondent/s : Mr. Sanjeet Kumar Tiwari, A.C. to AAG-12
(In CWJC No.2795 of 2015)

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Adv.
For the Respondent/s : Mr. Anjani Kumar, AAG-6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 20-02-2015

The petitioners herein pray for cancellation of the licence granted to the respective Primary Agriculture Credit Co-operative Societies located in the District of West Champaran inter alia on grounds that paragraph 3 of the notification dated 23.6.2011 whereby the Public Distribution System Control Order 2001 was amended to include the Primary Agriculture Credit Co-operative Societies and who were given priority in the matter of grant of licence to the exclusion of individuals, was struck down under a judgment of this Court passed in C.W.J.C. No. 15157 of 2011(Bihar Pradesh Jan Bitran Dukandar Sangh Vs. State of Bihar & Ors.) and analogous cases, a copy of which is placed at Annexure-2 of the writ petition.

Learned counsel for the petitioners in the two writ petitions have submitted that these cooperative societies were given priority over individuals by virtue of the notification which was enforced with effect from 23.6.2011 and in view of the judgment and order of the Division Bench whereby the relevant provision as contained in paragraph 3 of the said notification as contained in Annexure was struck down as well as in view of the subsequent amendment issued on 5.1.2015 vide Public Distribution System (Control) (Third Amendment) order, 2014 (hereinafter referred to as 'the

Amended Order 2014) whereby Clause 2.4 has been amended to exclude the Cooperative Societies, the licence of the private respondents cannot be continued and should be cancelled. Apart from such legal issues raised, it was also contended that the existence of the shops run by the Cooperative Society was resulting in business loss of the petitioners.

I have heard learned counsel for the parties and I have perused the records.

Whereas the issue of business loss cannot be a ground for questioning an existence of a parallel shop if it fulfills other requirement, it would be seen whether the argument of learned counsel(s) is sustainable in view of the judgment and order of this Court in the case of Bihar Pradesh Jan Bitaran Pranali Sangh (supra) as well as the Amendment Order 2014 and whether the petitioners are entitled for the reliefs.

The provisions underlying Clause 2.4 of the Public Distribution System (Control) Order 2001 as it was initially enforced in the State of Bihar vide G.S.R.1 dated 20.2.2007 included Cooperative Society as a priority category for issuance of licence. This provision was sought to be amended vide Notification enforced on 23.6.2011, a copy of which is placed at Annexure-1 to exclude the individuals and which was questioned

before this Court in the case of Bihar Pradesh Jan Bitaran Pranali Sangh (supra). The Division Bench of this Court vide judgment and order placed at Annexure-2 while upholding the right of the individuals for being considered for grant of licence, struck down the provisions as being discriminatory.

The judgment of this Court was followed by the Amendment Order 2014 and whereby the individuals have again been included along with Cooperative Societies and other categories mentioned therein. Thus the Cooperative Societies were all along eligible for grant of licence and the judgment of the Division Bench of this Court relied upon by the petitioners in no manner interfere with the eligibility of the Cooperative Societies for grant of licence under the Public Distribution System Control Order.

In such circumstances, the arguments of the petitioner do not sustain and the two writ petitions are accordingly disposed of.

(Jyoti Saran, J)

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