

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 14077 of 2021

Saroj Devi, W/o Vijay Sharma, Resident of Village-Berra, P.S.-Masaurhi,
District-Patna, Chairperson of Berra PACS, Masaurhi, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Collector, Patna.
3. The District Co-operative Officer, Patna.
4. The Sub-Divisional Officer, Masaurhi, District-Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondent/s : Mr. Alok Ranjan (AC to AAG 5)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 24-09-2021 The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

The present writ petition has been filed seeking quashing of the order dated 21.05.2021, passed by the Sub-Divisional Officer- cum- Licensing Authority, Masaurhi, whereby and whereunder the P.D.S. license of the Berra PACS bearing License no. 46 of 2016 has been suspended on the ground that the husband of the petitioner namely Vijay Sharma is an accused in Masaurhi PS case no. 377 of 2016 and



moreover, a Certificate case bearing Certificate case No. 08 of 2016-17 has been instituted against the husband of the petitioner, who was the earlier Chairman of the PACS in question.

The learned counsel for the petitioner has submitted that at the moment, the petitioner is the Chairman of the PACS in question and her husband has got nothing to do with the affairs of the PACS in question. It is further submitted that the husband of the petitioner has already been granted bail in the pending criminal case and moreover, the warrant of arrest issued in the pending Certificate case has also been stayed by the Hon'ble Patna High Court by an Order dated 23.06.2017, passed in C.W.J.C. no. 18252 of 2016, hence it is submitted that the provisions contained in ***Rule 28 of Bihar Targeted P.D.S. (Control) Order, 2016*** are not applicable in the present case, inasmuch as neither the petitioner has been sent to jail nor she is a fugitive and in fact, her husband has also not ever been sent to jail nor he has been declared a fugitive, thus the impugned order dated 21.05.2021, whereby and whereunder the P.D.S. license of the PACS in question has been suspended stands vitiated in the eyes of law.

Per contra, the learned counsel for the State has not



disputed the position as is existing in law.

Having regard to the facts and circumstances of the case, this Court finds that admittedly, the present Chairman of PACS in question is neither an accused in any criminal case nor she is a fugitive nor has ever been sent to jail and even her husband is on bail and as far as the pending Certificate case, instituted against the husband of the petitioner is concerned, the Hon'ble Patna High Court has stayed the warrant of arrest issued against the husband of the petitioner, thus the action taken vide the impugned order dated 21.05.2021 is contrary to the provisions contained under ***Rule 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016***, therefore the impugned order dated 21.05.2021, passed by the Licensing Authority- cum- Sub-Divisional Officer, Masaurhi, Patna stands vitiated in the eyes of law, thus is quashed.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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