

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3591 of 2022

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Ram Babu Mahto, male, aged about 42 years, Son of Ramprasad Mahto,
Resident of Village - Basopatti Purvi, Ward No. - 9, P.S. - Basopatti, District -
Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
3. The District Magistrate, Madhubani.
4. The District Supply Officer, Madhubani.
5. The Sub Divisional Officer, Jaynagar, Madhubani.
6. The Block Supply Officer, Basopatti, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinay Raj, Adv.
For the Respondent/s : Mr. Alok Ranjan, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 29-09-2022

Heard Mr. Abhinay Raj, the learned
Advocate for the petitioner and Mr. Alok Ranjan, the



learned counsel for the State.

2. The petitioner is the nominated member of the PACS, who has been asked to take over the affairs of the PDS shop run by the concerned PACS in the event of the Chairman of the PACS having been arrested on account of his involvement in a case involving breach of E.C. Act.

3. One of the contentions of the petitioner is that without suspending the license given to the PACS, the supply line was stopped and the targeted beneficiaries were attached to another PDS shop.

4. Two grounds have been raised on behalf of the petitioner, namely, that if a proceeding was initiated against the PACS under Clause 28 of the Bihar Targeted Public Distribution System (Control) Order, 2016 (*in short the Control Order of 2016*), it had to be ensured whether the President of the PACS was in custody or had gone fugitive and in that case, the license was required to be cancelled. A final



decision in that regard was to be taken within a period of 180 days as far as possible. That not having been done, the very action of attaching the beneficiaries of the PACS shop to another PDS dealer is bad in the eyes of law. Otherwise also, such decision of the authorities has been challenged on the ground that without issuance of any show-cause notice, no such decision of attaching the beneficiaries to another PDS licensee was justified in the eyes of law.

5. From the counter affidavit, it appears that the license was granted to the PACS while one Mr. Ram Baran Mahto was the President of the concerned PACS. With his involvement in a criminal case, he was taken into custody. However, later, he came out of custody and again assumed the charge of the President of the PACS.

6. The afore-noted fact situation has not been controverted by the learned counsel for the petitioner.

7. In any view of the matter, a final



decision has to be taken either under Clause 27 or 28 of the Control Order of 2016.

8. If at all there has been any breach of the conditions of license, a decision is required to be taken.

9. Should the authorities consider that in view of the President of the PACS having been made accused in a criminal case involving breach of E.C. Act, 1955 and a proceeding is initiated under Clause 28 of the Control Order of 2016, the President of the PACS is required to be served notice and on receipt of his response, a final order is required to be passed within a period of 180 days.

10. That it has not been done up-till-now, only speaks of the inaction of the Department in conducting the affairs of the PDS.

11. Under the aforesaid circumstances, we direct that after serving show-cause notice on the President of the PACS, which has been granted license,



and receiving his response, a final order shall be taken within a period of 180 days by the licensing authority. While doing so, the licensing authority shall also take into account whether a license granted to a PACS could be cancelled on account of the misdemeanor of the President or with necessary changes in the Constitution of the PACS, such license should remain inviolate until any further complaint is lodged in that regard.

12. With the aforesaid observation / direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30/09/2022
Transmission Date	N/A

