

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7193 of 2022

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Ravindra Yadav Son of Muneshwar Prasad Yadav Chairman, Chitrakoli
Primary Agricultural Credit Societies Committee Limited, Resident of Ward
No.6, P.O.-Meghatri, Village-Gopalpur, Dibour, Ratanpur. District-Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Consumer and Food
Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Nawada.
3. The District Supply Officer, Nawada.
4. The District Cooperative Officer, Nawada.
5. The Sub Divisional Officer Rajauli, Nawada.
6. The Block Supply Officer, Block-Rajauli, Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashhar Mustafa, Adv. Mr. Ashish Kumar Ranjan, Adv. Mr. Abu Nasar, Adv.
For the Respondent/s	:	Mr. S. Raza Ahmad (AAG5)

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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 : 12-10-2022

Heard Mr. Ashhar Mustafa, learned advocate for the
petitioner and counsel for the State.

The petitioner, who is the Chairman of Chitrakoli
PACS in the district of Nawada, has challenged the order of the
concerned authorities of first suspending the license of the
PACS and, thereafter, its cancellation and that also without any
service of notice on the petitioner, who was deemed to be the



licensee as the license was granted to the PACS of which he was the Chairman.

It appears that an F.I.R. was registered against the petitioner on 12.05.2021 under Sections 147, 149, 341, 323, 308, 353, 504 and 506 of the I.P.C. Shortly thereafter i.e. on 07.06.2021, the license of the petitioner was suspended and the beneficiaries attached to the concerned PACS were attached to another PDS dealer. On the same day, the notice is said to have been issued to the petitioner to explain his cause which is shown to have been received by him on 07.07.2021 i.e. when the petitioner was neither in jail nor was afforded the privilege of anticipatory bail.

The petitioner seriously contends that he has never received the notice and that the endorsement by his name on such notice is forged and fabricated. It has further been submitted that the petitioner got anticipatory bail on 23.12.2021. However, about ten days before the petitioner being granted anticipatory bail, final order of cancellation of license was passed on 04.12.2021.



Mr. Ashhar Mustafa, learned advocate for the petitioner has raised the solitary point that the final order has been passed without affording any notice to the petitioner for explaining his cause. Clause 28 of the Control Order of 2016 is very clear and it mandates that if the F.I.R. is lodged against the licensee under the E.C. Act, 1955 or under any one of the sections of the I.P.C. and pursuant to such F.I.R., if the licensee goes to jail or is not to be traced (fugitive), his license would be suspended by the Licensing Authority with immediate effect and after serving show-cause notice upon him in accordance with the C.P.C. and giving him sufficient opportunity to present his case, a lawful action is required to be taken within 180 days, as far as possible.

It is the contention of the petitioner that assuming that the petitioner was not traceable and he was not on bail, his license was suspended but, before cancellation, he was required to be served notice. Though from the records of the authority, it appears that the notice has been served to the petitioner but, from the circumstances of this case, it appears that there could be truth in the contention of the petitioner that



the endorsement by his name on the copy of the notice which he has himself annexed with the writ petition was forged and fabricated.

Mr. Mustafa further supplements his argument with a presumptive logic that without any protective cover of anticipatory bail, the petitioner would, under normal circumstances, not have made himself available for being served notice to him for it would have paved way for his arrest in the meanwhile.

Be that as it may, the view point of the petitioner has not been taken before a final order has been passed.

Thus, we are of the view that the interest of justice would be served better if the order of cancellation of license is set aside and the matter is remitted to the Licensing Authority to take a fresh decision after issuing a fresh notice to the petitioner within a period of sixty days from the date of presentation/production of a copy of this order. On such notice being served upon the petitioner, he shall respond to the same within a period of thirty days thereafter. The Licensing Authority thereafter, affording an opportunity of hearing to the



petitioner, shall pass a final order within a further period of sixty days giving reasons in support of such decision.

Any order so passed shall be made available to the petitioner forthwith.

In the meantime, the interim arrangement made by the authorities namely tagging of beneficiaries of the petitioner with another PDS dealer shall continue.

With the aforesaid observation and direction, the writ petition stands disposed of.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.10.2022
Transmission Date	

