

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11977 of 2016

Kamini Ranjan W/o Rajeev Ranjan Kumar Singh, the President of Primary Agriculture Credit Society PACS Mesaudha, Piprahi, P.S- Piprahi, District Sheohar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Government of Bihar, Old Secretary, Patna.
3. The District Magistrate cum Collector Sheohar.
4. The Sub-Divisional Officer, Sheohar, District- Sheohar.
5. The District Supply Officer, Sheohar, District- Sheohar.
6. The Assistant District Supply Officer, Sheohar, District Sheohar.
7. Ram Babu Gupta, S/o Kamal Prasad Gupta, Resident of village- Mesaudha, P.O. P.S.- Piprahi, District- Sheohar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Kumod Kumar Shrivastaw, Advocate
For the State	:	Mr. Aditya Nath Jha, Advocate
For the Respondent No.7 :		Mr. Yogendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 01-12-2022

Heard Mr. Kumod Kumar Srivastava, the learned counsel for the petitioner, Mr. Aditya Nath Jha for the State and Mr. Yogendra Kumar Singh for the respondent No. 7.

The petitioner took over as President of Mesaudha PACS, which was granted the licence to run



the PDS shop. The erstwhile President, namely, Raghunath Singh, became an accused in a criminal case, which led to the suspension of the licence. Later, with the election of the petitioner as the President, the PACS ratified that the petitioner be treated as the licensee. However, in the interregnum, on the complaint of one Om Prakash and 21 others, an enquiry was conducted regarding complaints of irregular supply of food-grains to the beneficiaries, which led to the cancellation of the licence of the Mesaudha Panchayat. This order was passed on 31.01.2015. When the petitioner came to learn that the accusation/allegation is of the period between July and August 2014 when she had not taken over as the President and consequently as a licensee, a writ petition was filed by her vide CWJC No. 3474 of 2015, in which, by order dated 16.10.2015, a direction was given to the petitioner to make a suitable representation before the licensing authority and making him aware of the aforementioned fact situation who was in



turn obligated to pass a decision on such representation. When the matter was brought to the notice of the licensing authority, the request of the petitioner to reconsider her case was rejected on the sole ground that licence, in the meantime, had already been issued to one Ram Babu Gupta (respondent No.-7) on 14.11.2015 leaving no position vacant in Mesaudha Panchayat. This order was passed on 14.12.2015. There is no challenge to the aforesaid order except for filing of the present writ petition on 27.07.2016.

The Mesaudha PACS was granted licence under the Control Order of 2011. Now, Bihar Targeted Public Distribution System (Control) Order, 2016 is in operation. In the new Control Order of 2016 also, preference is required to be given to Institutions over individuals. Such was the mandate in the earlier Control Order also.

Mr. Srivastava, the learned counsel for the petitioner has drawn the attention of this Court to the



two facts, which entitle the petitioner for a re-consideration, notwithstanding that the vacant position was given to respondent No. 7, who has been running the PDS shop for the last 7 years by now. In the earlier Control Order, Mr. Srivastava argues, preference had to be given to the Institution only and that no vacancy was required to be counted for any vacant position, more so when litigation was pending. However, pressing the first ground, referred to above, Mr. Srivastava urges that in the event of complaint having been filed which was found to be true for the period when the petitioner was not handling the licence, she could not have been penalized for the same. Even otherwise, institutional licences have to be dealt with differently. Under the present Control Order of 2016, the procedure is that in case of the PACS selecting a new President and authorizing and ratifying that the new incumbent takes over as a licensee on behalf of the PACS, the supply line is continued. Mr. Srivastava, therefore, argues with



refrain that instead of allowing the petitioner to step into the shoes of her predecessors, a third party interest was created and that also in favour of an individual to the exclusion of the Institution of PACS.

Mr. Yogendra Kumar Singh, learned Advocate for respondent No. 7, submits that for the last seven years, he has been handling the shop without any complaint and if he was chosen as a licensee without any misrepresentation, there is no reason why his position should be disturbed at this juncture.

Nonetheless, the petitioner has a just cause to agitate the reason being that the complaint was not of the period when she was handling the licence and that she had stepped into the shoes of her predecessors, whose position was ratified by the PACS with respect to handling the licence on behalf of the PACS. Under such situation, a third party interest should not have been created.

At this stage, Mr. Srivastava has further



informed this Court that the licence of respondent No. 7 presently stands suspended because of breach of terms and conditions of the licence.

The counsel appearing for respondent No. 7, however, does not have any idea about this development.

Be that as it may, the issue requires consideration.

On a suitable complaint/representation being made before the Commissioner of the Division, in view of the notification dated 21.07.2022, issued by the government in exercise of the powers conferred under Sections 3 and 5 of the Essential Commodities Act, 1955, read with Clause-36 of the Bihar Targeted Public Distribution System (Control) Order, 2016 within a period of 30 days, the Commissioner, after hearing all the stakeholders, including private respondent No. 7, and after perusing all the circulars and instructions in this regard, shall pass a final order on such



complaint/representation within a period of 60 days,
giving reasons in support of such decision, which shall be
communicated to all the parties.

With the aforementioned direction the writ petition
stands disposed of.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

SONALI/HR

AFR/NAFR	NAFR
CAV DATE	NA
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