

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17965 of 2022

=====

Sapta Panchayat Kirshk Seva Swablambi Sahkari Samiti Limited, a Co-operative Society, having its office at Village Laheriyaganj P.O. and P.S. Madhubani, District Madhubani, through its Secretary Pappu Kumar Paswan, aged about 44 years (male), son of Ram Bahadur Paswan, resident of Village Lalganj Samela, Ward No. 14, P.S. Kewati, District Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
2. The Principal Secretary, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
3. The Agriculture Director, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
4. The District Agriculture Officer, Madhubani.
5. The District Agriculture Co-ordinator, Madhubani.
6. The District Magistrate, Madhubani.
7. The Block Agriculture Officer, Rahika.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate.
For the Respondent/s	:	Mr. Raghwanand (GA 11) with Mr. Pratik Kumar, AC to GA-11.

=====

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

7 05-12-2023

Re. I.A. No. 1 of 2023

For the reasons mentioned in the Interlocutory
Application No. 1 of 2023, the same is allowed.

Registry is directed to make necessary changes
accordingly.

Re. CWJC No. 17965 of 2022

Heard learned counsel for the parties.

2. The present Writ Petition has been filled for the



following reliefs:-

“(i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing memo no. 3089 dated 09.12.2022 issued by the Respondent District Agriculture Officer, Madhubani (Annexure 7) whereby the fertilizer license no. CFK 20041700811-R granted to the petitioner for wholesale business of fertilizer has been cancelled on wholly erroneous consideration.

(ii) Consequent to grant of relief no. (i) to further direct the Respondent District Agriculture Officer, Madhubani, to release the entire quantum of fertilizer and wheat seized from Petitioner's godown.

(iii) This Hon'ble Court may adjudicate and hold that memo no. 3089 dated 09.12.2022 is bad in the eyes of law and violative of the principles of natural justice as the same has been passed in a mechanical manner without application of mind and without even remotely considering the explanation offered by the petitioner in the show cause reply dated 05.12.2022.

(iv) This Hon'ble Court may adjudicate and hold that Respondent District Agriculture Officer being a quasi-judicial authority, was under an obligation to pass a reasoned and speaking order dealing with all the contentions put forth by the petitioner.

(v) This Hon'ble Court may adjudicate and hold that the cancellation of petitioner's fertilizer license is violative of proviso to Clause 31(1)(b) of the Fertiliser Control Order, 1985 as the petitioner has not been afforded the mandatory 30 days period to dispose of the balance stock.

(vi) This Hon'ble Court may adjudicate and hold that according to the terms and conditions of the certificate of registration (Form B of Fertilizer Control Order, 1985) the only requirement for changing the place of sale depot/godown is that the dealer has to intimate the registering authority regarding change in the



premises of sale depot and/godown attached to the sale depot.

(vii) This Hon'ble Court may adjudicate and hold that since wheat is an uncontrolled commodity, engaging in the trade of wheat does not violate the provisions of the Essential Commodities Act, 1955.

(viii) This Hon'ble Court may further adjudicate and hold that cancellation of Petitioner's fertilizer license is highly disproportionate to the allegations levelled upon the petitioner.

(ix) This Hon'ble Court may further adjudicate and hold that the action of Respondent District Agriculture Officer is a completely arbitrary exercise of authority/power vested in him.”

3. Learned counsel appearing on behalf of the petitioner has stated that pursuant to the order dated 09.01.2023 the authorities have passed fresh order of cancellation on 30.01.2023 in Memo No. 194. Learned counsel has stated that the petitioner may be permitted to withdraw the present writ petition with a liberty to file an appeal against the said order of cancellation dated 30.01.2023.

4. Having regard to the same, the present writ petition is disposed off granting liberty to the petitioner to file an appeal against the order of cancellation dated 30.01.2023. Even though, the counsel for the petitioner has prayed this Court to pass appropriate orders for seeking release of the stock which is lying in the subject premises. This Court is not inclined to pass any order at this stage as the petitioner has sought to file an appeal



against the order of cancellation dated 30.01.2023. However, in case, the petitioner is so advised, the petitioner can file an appropriate application seeking release of the Stock lying in the subject premises before the appellate authority. On such application being filed, the same shall be considered on its own merits. The authorities concerned shall pass necessary orders as expeditiously as possible preferably within a period of four weeks from the date of filing of such application.

5. It is needless to mention that before passing any orders, the petitioner shall be granted an opportunity of hearing. Any order passed, shall be communicated to the party.

6. With the above directions, the present Writ Petitioner stands disposed off to the extent indicated above.

(A. Abhishek Reddy , J)

shakir/-

U			
---	--	--	--

