

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13267 of 2022

Primarily Agriculture Co-Operative Credit Society through Pankaj Kumar Singh Male, Aged About-52 Years, S/o Late Devendra Prasad Singh, Resident of Village-Goraiya, P.S.-Kurhani, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supply, Old Secretariat, Patna.
2. The District Magistrate, Muzaffarpur.
3. That Sub-Divisional Magistrate, West, Muzaffarpur.
4. That Block Supply Officer, Kurhani.
5. The Block Development Officer, Kurhani.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shankar Kishore Shahi, Advocate.

For the Respondent/s : Mr. Arvind Ujjwal (SC-4).

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

2 23-07-2024 Heard the learned counsel for the parties.

2. The present writ petition has been filed for the following reliefs:-

“... for issuance of a writ in the nature of certiorari for quashing the memo no. 644 dated 14.05.2020 passed by Sub Divisional Magistrate, West, Muzaffarpur whereby and where under cancel the licence without application of judicial mind, without considering the reply of show cause notice, enquiry report and without verifying the facts from the record which is illegal arbitrary and mala-fide, as well as order dated 08.07.2022 passed by the Collector, Muzaffarpur whereby and whereunder affirmed the order dated 14.05.2020 without application of his judicial mind.

It is prayed to restore the licence



of the petitioner in the light of the above facts and circumstances. It is further prayed to stay the operation of impugned order during the pendency of the writ petition.”

3. Learned counsel for the petitioner has stated that the license has been issued in favour of Goraiya Dubiyahi PACS. That on 25.04.2020 an inspection has taken place and certain irregularities were alleged against the license holder. Thereafter, based on the inquiry report the Sub-Divisional Magistrate, West, Muzaffarpur has issued a show cause notice to the petitioner to which the petitioner has given a suitable explanation on 12.05.2020. Learned counsel for the petitioner has stated that the authority on 14.05.2020 has cancelled the license of the petitioner. That the appeal filed by the petitioner has being dismissed in a pedantic & mechanical manner. Though, a clarification has been issued by the higher-ups i.e. District Co-operative Officer (Annexure-12) clarifying the legal position that the license issued in favour of PACS cannot be cancelled and that in case the new Chairman is elected, the PACS shall be represented by the new Chairman. It is pertinent to note that the said opinion was based on the Memo No. 2565 dated 26.03.2015 issued by the Government (Annexure-11). Learned counsel for the petitioner has stated that though, the opinion was obtained by the authority concerned on 24.02.2021, the authority till date did not comply with the same. That till



date no final orders are passed nor the license of the petitioner has been restored. Learned counsel has stated that in view of the legal opinion and also the Memo No. 2565 dated 26.03.2015 issued by the Government (Annexure-11), the license of the petitioner cannot be cancelled and has to be restored. Learned counsel has therefore, prayed for allowing the present writ petition by setting aside the order dated 14.05.2020 and 08.07.2022 passed by the Sub-Divisional Officer and the appellate authority respectively and consequently directed the concerned authority to restore the license of the petitioner and resume the supplies.

4. The fact that the Government has issued the memo dated 26.03.2015 (Annexure-11) has not been denied by the learned counsel for the respondents. Further, it is also not denied that the license is granted in favour of the PACS and not in favour of any individual. Learned counsel for the Respondent-State has fairly stated that as per the Government memo dated 26.03.2015, the license issued in favour of the PACS cannot be cancelled.

5. Having regard to the above, the impugned order dated 14.05.2020 passed by the Sub-Divisional Magistrate, West, Muzaffarpur and the order dated 08.07.2022 passed by the



District Magistrate, Muzaffarpur are set aside. The Respondent No. 2 is directed to restore the license of the petitioner and further directed to resume the supplies to the PACS as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order.

6. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

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