

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13394 of 2022

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Dipu Kumar Rai son of Late Ramyash Rai, Resident of Village - Babu Tola,
Guruwaliya, Police Station - Mannuapul, District - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, West Champaran at Bettiah
5. The Sub-Divisional Officer, District-West Champaran at Bettiah
6. The Block Supply Officer, Chanpatiya District-West Champaran at Bettiah.
7. The District Co-operative Officer, West Champaran at Bettiah

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar
For the Respondent/s : Mr. S. Raza Ahmad (Aag 5)

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

6 12-03-2024 Heard the learned counsel for the parties.

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

“I) For issuance of writ in the nature of certiorari, quashing the order contained in Memo No. 1256/अ dated 03.09.2021 whereby and whereunder the Sub-Divisional Officer, Bettiah, West Champaran has suspended the PDS License No. 17/2016 of Gurwaliya PACS. (Annexure-15)

II) For directing the licensing authority to restore the PDS license No. 17/2016 of Gurwaliya PACS and further to issue unite continuing allotment to the said fair price shop for distribution among the



respective consumers in view of the recommendation made by the District Co-operative Officer, West Champaran Bettiah vide Letter No. 243 dated 25.02.2021 (Annexure-13) relying upon the government decisions communicated vide Memo No. 2565 dated 26.03.2015 and Letter No. 7119/Patna dated 22.08.2016 (Annexure-11 & 12 respectively).

And

For any other relief/reliefs for which the petitioner is entitled for.”

3. Learned counsel for the petitioner has stated that the license has been issued in favour of Gurwaliya PACS, the said PACS was represented by one Sidheshwar Kumar Ray. That on 23.01.2020 an inspection has taken place and certain irregularities were alleged against the license holder. Thereafter, based on the inquiry report the Sub-Divisional Officer has issued a show cause notice to the petitioner to which the petitioner has given a suitable explanation on 18.02.2020. However, the concerned authority without considering the explanation submitted by the petitioner has issued another show cause notice dated 25.03.2020 asking the petitioner to submit his explanation with regard to the criminal case filed against the then Chairman of PACS. Learned counsel for the petitioner has stated that the authority on 03.09.2021 has suspended the license of the petitioner and till date no final orders are passed. 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 with a direction to 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 authority in its counter-affidavit. 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 03.09.2021 passed by the Sub-Divisional Officer, Bettiah, West Champaran i.e. respondent No. 5 (Annexure-15) is set aside. The respondent no. 5 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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