

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17097 of 2022

Primary Agriculture Cooperative Society Barhara Mahaji, Semariya through its President Sri Prithvi Nath Rai, aged about 51 Years, Gender-Male, Son of Dindayal Ray, Resident of Village-Semariya Mahazi, P.S.-Sadar Chapra, District-Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The S.D.O., Sadar Chapra, Saran.
3. The Block Supply Officer, Sadar Chapra, Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Adv. Mr. Kumar Rajdeep, Adv. Mr. Vijay Anand, Adv.
For the Respondent/s	:	Mr. Arvind Ujjwal (Sc4)

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

2 12-12-2024 Heard learned counsel for the parties.

2. The present writ petition has been filed for the following relief(s):-

“..... for challenging the order dated 30.03.2022 passed by the S.D.O., Sadar Chapra (Supply Department) by which petitioner’s PDS license No. 87/16 has been suspended because on case U/s 7 of the E.C. Act being Doriganj P.S. Case No. 108/22 dt. 16.03.2022 been filed against the petitioner.”

3. Learned counsel appearing on behalf of the petitioner has stated that the Sub-Divisional Officer without



verifying that the license has been granted to the PACS has cancelled/suspended the same. Though, a clarification has been issued by the department clarifying the legal position that the license issued in favour of PACS cannot be cancelled/suspended and that in case the new Chairman is elected, the PACS shall be represented by the new Chairman. Further it is stated that the Government has also issued Memo No. 2565 dated 26.03.2015 clarifying above the legal position and reiterating that the license issued to the PACS cannot be suspended.

4. The learned counsel appearing on behalf of the respondents has not disputed the above legal position and also the Memo No. 2565 dated 26.03.2015 issued by the State Government. However, learned counsel has stated that in case a direction is given to the authorities to restore the license to the PACS, the shop cannot be run by the person who was at the helm of the affairs when the irregularities were committed.

5. The fact that the Government has issued the Memo No. 2565 dated 26.03.2015 has not been denied by the authorities. Further, it is also not denied that the license is granted in favour of the PACS and not in favour of any individual. As per the Government Memo No. 2565 dated 26.03.2015, the license which is issued in favour of PACS



cannot be cancelled/suspended.

6. Having regard to the above, the impugned order dated 30.03.2022 passed by the Sub-Divisional Officer, Sadar Chapra, Saran is set aside. The Respondent No. 2 is directed to restore the license in favour of the PACS 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. However it is made clear that in case the license is restored to the PACS the person who was running the shop at the time of inspection any irregularities were found cannot run the shop. The PACS is directed to nominate any other person to run the shop.

7. With the above directions, this Writ Petition is allowed to the extent indicated above.

(A. Abhishek Reddy , J)

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