

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18099 of 2022

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Upendra Sharma, Son of Late Raghu Nandan Sharma, Resident of Village-
Majhaura Duhabi Mahinathpur, P.S.- Bassopatti, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supply, Government of Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The Sub-Divisional Magistrate, Jai Nagar, District- Madhubani.
4. The District Co-operative Officer, Madhubani.
5. The District Supply Officer, Madhubani.
6. The Block Co-operative Officer, Bassopatti, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shiv Kumar, Advocate.
For the Respondent/s : Mr.Arvind Ujjwal (SC 4)

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

9 16-04-2024 Heard the learned counsel for the parties.

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

*” for quashing of the
order passed by Sub-Divisional
Magistrate, Jai Nagar on 15.09.2021
by which the shop allotted to the
petitioner under Bihar Lakshit
Sarbjanik Bitran Parnali Vitran
Aadesh 2016 under item 28 has been
suspended with immediate effect and
further writ in the nature of writ of
mandamus be issued directing the
concern respondents to allow to
petitioner work in accordance of the
Rules and circulars issued from time*



to time by the State Government and also on the basis of recommendation made by the Panchayat and other concern department and authorities of the Government and or pass other order or orders as your Lordships may deem fit and proper.”

3. Learned counsel for the petitioner has stated that the show cause has been issued to the petitioner on 01.11.2021, wherein it is stated that the license of the petitioner has been suspended on 15.09.2021 by the Sub-Divisional Magistrate, Jain Nagar (Respondent No. 3) on the basis of certain irregularities alleged against the license holder. Thereafter, petitioner has filed a representation before the Sub-Divisional Magistrate on 01.11.2021 stating that he is on bail. Learned counsel has stated that the petitioner has given a suitable explanation to the Sub-Divisional Magistrate on 25.11.2021 on which, the Sub-Divisional Magistrate asked opinion from the Block Supply Officer on 03.12.2021. Learned counsel has stated that the petitioner again filed a representation before the District Cooperative, Madhubani for revocation of suspension of his PDS shop then the District Co operative Officer sent a letter to the Sub-Divisional Magistrate for proper functioning of the Public Distribution System. Learned counsel for the petitioner has stated that the authority on 15.09.2021 has suspended the



license of the petitioner and till date no final orders are passed. Though, the District Co-operative Officer has sent a letter dated 23.02.2022 (Annexure-9) along with other documents to the Sub-Divisional Magistrate for taking decision with respect to proper functioning of the Public Distribution System. It is pertinent to note that the said opinion was based on the Memo No. 2565 dated 26.03.2015 issued by the Government. Learned counsel for the petitioner has stated that though, the opinion was obtained by the authority concerned, 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, 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 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. 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 15.09.2021 passed by the Sub-Divisional Magistrate, Jain Nagar, Madhubani i.e. respondent No. 3 (Annexure-2) is set aside. The respondent no. 3 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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