

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16216 of 2024

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Kare PACS through its President Ravishankar Prasad Sharma aged about 65 Years (Male), S/o Munshi Mistri, Resident Village - Kare, P.S.-Sheikhpura, District - Seikhpura,

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna
2. The Divisional Commissioner, Munger.
3. The Distirct Magistrate-Cum-Collector, Sheikhpura .
4. The Sub-Divisional Officer-Cum-Licensing Authority, Sheikhpura.
5. The Block Supply Officer, Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Adv. Mr. Roop Kishan, Adv. Mr. Dilsha Kumari, Adv.
For the Respondent/s	:	Mr.,Arvind Ujjawal, Standing Counsel 4

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

2 23-10-2024 Heard learned counsel for the parties.

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

“i) for quashing the order dated 28.03.2024 passed by Divisional Commissioner, Munger in PDS Revision Case No. 174/2023 whereby and whereunder the Revision preferred by the petitioner against the order of the Learned Collector dated 22.11.2022 was cancelled.

(ii) To issue writ in the nature of certiorari for quashing the order dated 22.11.2022 passed by



Learned District Magistrate, Sheikhpura whereby and whereunder the Supply Appeal preferred by the petitioner against the order of the Learned S.D.O dated 09.06.2022 was cancelled.

(iii) For quashing the order dated 09.06.2022 passed by S.D.O. Sheikhpura contained in Memo No. 340 whereby and whereunder the license granted to the PACS vide License No. 02/11 for carried out a business of a Public Distribution shop was cancelled on the ground that the show cause filed by the petitioner is not satisfactory.”

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 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 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 cancelled. Learned counsel has further stated that except using the word “unsatisfactory” to the explanation



submitted by the petitioner the Sub-Divisional Officer has not given other reason for cancelling the licence of the petitioner.

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 (Annexure P/10) 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.

6. Having regard to the above, the impugned order dated 28.03.2024 passed by the Divisional Commissioner, the order dated 22.11.2022 passed by the appellate authority and the order dated 09.06.2022 passed by the Sub-Divisional Officer, Sheikhpura are set aside. The Respondent No. 4 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 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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