

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5591 of 2021

=====

Dharmendra Sharma S/o Shri Ramswaroop Sharma Resident of Chandhi
Mahto Tola, Tikarampur, P.S. Mufassil, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Collector, Munger.
3. The District Supply Officer, Munger.
4. The Sub Divisional Officer, Sadar, Munger.
5. The Block Supply Officer, Sadar, Munger.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. N.K. Agarwal, Sr. Advocate
For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 21-02-2022

Heard Mr. N.K. Agarwal, learned Senior Advocate
for the petitioner and Mr. Upendra Pratap Singh, AC to
SC-4 for the State.

The order dated 17.12.2020 passed by the
S.D.O., Sadar, Munger is under challenge.

Kamal Kumar @ Kamal Kishore was the Chairman
of Mahadeo Jan Seva Sansthan Samiti in whose name the
licence to run the PDS shop was given. Aforesaid Kamal
Kumar @ Kamal Kishore resigned. This necessitated
change in the name of the licensee for which necessary
application was made before the licensing authority. That



request has been turned down on the ground of the licence under the PDS scheme to be non-transferable as provided under Rule 16 of the Bihar Targeted P.D.S. (Control) Order, 2016.

Mr. Agarwal submits that Rule 16 provides for transfer of licence and there is a proscription in the rule of the licence being non-transferable in the name of any member of a family or of any other person. There is a further embargo in inducting any partner in such licence.

Mr. Agarwal, therefore, contends that this provision is limited to the individual licensees and ought not to be applied in cases of licence of self-help groups or of co-operative societies.

Nothing has been brought on record to indicate the procedure by which the post of Chairman of the Co-operative society would be filled up in case of his resignation or the post falling vacant for any other reason.

In order to cover the aforesaid circumstance, it is the requirement under the Bihar Targeted P.D.S. (Control) Order, 2016 that such co-operative societies desirous of obtaining licence need to apply for the same under Schedule 2 to the Bihar Targeted P.D.S. (Control) Order, 2016.

One of the inputs which is required to be given for obtaining licence in the name of a co-operative society



or a self-help group is the details of the members of the Managing Committee of such society.

It has also to be informed that in case such Managing Committee is superceded, who would be named and designated as an Administrator.

Perhaps the petitioner did not specify before the licensing authority while making a request for transfer of licence in name of the Treasurer of the co-operative society that in the absence of Chairman, either by way of his resignation or the post falling vacant for any other reason, the Treasurer would be the in-charge administrator in the interregnum.

When such information has not been provided, the only order which could have been passed by the authority was rejection in view of Rule 16.

Mr. Agarwal submits that at present he is not aware whether such information was provided by the co-operative society while obtaining licence in its name.

We are therefore inclined to dispose of this writ petition by directing that in case a fresh application is made before the Licensing Authority with necessary inputs as noted above, it shall be considered by the concerned authority and an order shall be passed without any delay, preferably within a period of eight weeks of filing of such representation and that shall be intimated to the petitioner.



Needles to say that the order shall be a speaking order.

With the aforesaid direction/observation, the writ petition is disposed of.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

krishna/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	23.02.2022
Transmission Date	NA

