

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12241 of 2003

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Md. Mahfuzur Rehman son of Abdul Hadi, resident of village- Betaha Ward No. 11, PS-Bela, District-Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Sitamarhi
3. The S.D.O, Sitamarhi
4. Laxman Ram son of Mukha Ram, resident of village Betaha Ward No. 15, PS-Bela, District-Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Jha, Adv.

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 07-04-2015

Heard learned counsel for the petitioner. No one is appearing on behalf of the private respondent.

In the present case, the petitioner has sought the relief for giving direction for issuance of licence as dealer for running fair price shop under the Public Distribution System of Ward No. 11 of Betha Gram Panchayat within Bela Police Station in the district of Sitamarhi.

The petitioner applied for the licence for retail shop under the Public Distribution System in May, 2003 and after satisfaction of formalities provided under the Bihar Trade Articles (Licence Unification) Order 1984, Act, the application of the petitioner was recommended by Md. Shakeel Ahmad, Mukhuia and Md. Shahid, Member of Panchayat Samittee of

Ward no. 17 but instead of granting the licence to the petitioner, the same was allotted in favour of Respondent no. 4.

In the counter affidavit, the State has submitted that the respondent authorities were in consideration of granting licence much before the recommendation received by the Department and further stated that before the receipt of the recommendation, the case of Respondent no. 4 was considered and he was found fit for the aforesaid shop and accordingly, the licence was granted to him.

The petitioner has disputed this fact and submitted that the maneuvering was done at the instance of Respondent no. 4. The fact is that the recommendation to grant the licence to the petitioner by the Mukhiya and the Member of the Panchayat Samiti were received by the Respondents much prior to issuance of licence to Respondent no. 4 but deprived of the right. Though Respondents have taken the plea but have not produced any material to substantiate the statements made in the counter affidavit.

This Court cannot decide the disputed question of facts. As it appears that the petitioner has applied for the licence in the year 2003 itself, let the Collector of district Sitamarhi examine the case of the petitioner as to whether the respondents have received the recommendation before the issuance of licence of Respondent no. 4 or the same was

received after the issuance of licence.

As the petitioner has filed the application in the year 2003 which is a very old one, the petitioner is directed to file a detailed fresh representation to the Collector who will examine the matter and take necessary decision in the case of the petitioner within six months from the date of filing of the representation.

Accordingly, this petition is disposed of.

(Shivaji Pandey, J)

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