

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11778 of 2012

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1. Md. Juber Alam Son Of Md. Ishlam Resident Of Village - Shyamnagar, P.S Narpatnagar, District Araria
 2. Mahoranjnan Kumar Mandal Son Of Gamklal Mandal Resident Of Village - Shyamnagar, P.S Narpatnagar, District Araria
 3. Samir Kumar Singh Son Of Late Tripurari Mohan Singh Resident Of Village - Shyamnagar, P.S Narpatnagar, District Araria
 4. Kalanand Bishwash Son Of Udyanand Bishwash Resident Of Village & P.O. Majhua, P.S. Forbisganj, District Araria
 5. Ankit Kumar & Aniket Kumar (Both Minors) Through Its Proprietor Father Jai Prakash Choudhary Son Of Late Dorik Choudhary Resident Of Mohalla - Rafal Road, Ward No. 7, P.S. Forbisganj, District Araria
 6. Ram Prit Kumar Son Of Raja Ram Rai Resident Of Mohalla - Forbisganj, District Araria
 - 7.(i) Most. Nilu Devi W/O Late Rajendra Choudhary, (ii) Aman Choudhary (Minor) (iii) Raushan Chaudhary (Minor) Both Sons Of Late Rajendra Choudhary Under The Guardianship Of Her Mother Most. Nilu Devi Residing At & P.O. Araria, P.S. & District - Araria
 8. Ganesh Singh Son Of Kedar Nath Singh Resident Of Village - Baghwa, P.S. Jogbani, District Araria
 9. Kuresh Alam Son Of Mazid Mian Resident Of Mohalla - At & P.O. Forbisganj, P.S. Forbisganj, District Araria.

.... Petitioner/s

Versus

1. The State Of Bihar through The Secretary, Department Of Agriculture, Bihar, Patna
2. The Agriculture Production Commissioner, Department Of Agriculture, New Secretariat, Patna
3. The District Magistrate, Araria
4. The Sub-Divisional Officer-Cum-Special Officer, Agriculture Production And Marketing Committee (B) Forbisganj, Araria
5. The Anchal Adhikari, Forbisganj Block, Forbisganj, District Araria
6. The Secretary, Agriculture Production And Marketing Committee, Forbisganj, Araria
7. The Officer-In-Charge, Forbisganj, Police Station , Forbisganj, District Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha

For the Respondent/s : Mr. Ravi Bhardwaj, A.C. to G.A.-5

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 02-12-2015

Heard the Counsel for the petitioner and A.C. to G.A.-5 for the
State.

Indisputably, during the pendency of the writ application, the grievance of petitioner nos. 1, 2, 3, 6 and 9 was redressed and the writ application, on their behalf, was allowed to be withdrawn. The writ application now survives only on behalf of petitioner nos. 4, 5, 7 and 8.

The grievance of the petitioners is that although they hold licence but could not deposit the required fee and application within the time advertised by the respondents and, as such, no space on the covered platform within the marketing area of Krishi Bazar Samiti (for short 'the Samiti') was allowed to them. Since, some of the petitioners, during the pendency, were granted the relief, a question of discrimination has also been raised. The respondents have clarified in the supplementary counter affidavit that those who were considered subsequently have valid licences whereas in the case of the present petitioners, they did not possess a valid licence. This has been rebutted by the petitioners saying that in previous affidavit, statement was made on behalf of the State respondents that all the petitioners hold licence.

This Court shall not go into the question of discrimination in view of the diverse facts which have been pleaded by them. Mr. Jha has brought to the notice of the Court an order passed by the respondent settling/allotting some more plots/covered area on the platform within the precincts of the Samiti. He submits that the

petitioners should also be granted liberty to approach the respondents for allotment of the covered area on the platform inside the Samiti if the respondent come out with any such advertisement or notice inviting applications as the petitioners do possess valid licence which is being extended from time to time.

Although the stand of the respondents in the counter affidavit is that the petitioners do not hold the valid licence barring petitioner no. 7 but considering the stand taken by the petitioners, this Court without going into that aspect of the matter would dispose of the application granting the petitioners liberty to approach the respondents and/or apply afresh if any notice inviting application is published by the respondents for allotment of covered area on the platform which shall be considered in accordance with law. It will also be open to the petitioners to apply for allotment of area/space on the covered platform within the Samiti if some space is left for such allotment even without any advertisement made in this regard. The respondents, in that case, shall confine consideration as to the eligibility of the petitioners to be allotted such area/space if any such space is actually available within the Samiti to be allotted to the eligible applicants.

(Kishore Kumar Mandal, J)

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