

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6688 of 2014

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Niranjan Kumar Son Of Late Ravindra Prasad Singh Resident Of Village- Kapasia,
Police Station- Sour Bazar, District- Saharsa

.... Petitioner/s

Versus

1. The Bihar State Food And Civil Supplies Corporation Limited Through Its Managing Director
2. The Managing Director, Bihar State Food And Civil Supplies Corporation Limited Both Of At-Sone Bhawan, 5th Floor, Birchand Patel Path, Patna
3. The District Manager, The Bihar State Food And Civil Supplies Corporation Limited, At- Madhepur, District- Madhepura
4. The State Of Bihar
5. The Secretary, Department Of Food And Consumer Protection, Bihar, Patna
6. The Public Grievances Officer, Department Of Food And Civil Supplies, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satya Narayan Mishra, Adv.

For the Respondent/s : Mr. Sudhanshu Shekhar, AC to GP 31

For the Corporation :- Mr. Shailendra Kr. Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 06-02-2015

Heard learned counsel for the parties.

The prayer of the petitioner in this writ application reads

as follows:-

- "1(i) For quashing/setting aside the order as contained in Memo No. 6095 dated 20.07.2013 (Annexure-7) by which the application of the petitioner for his compassionate appointment has been rejected.
- (ii) For quashing/setting aside the decision of the Board of Directors of the respondent-Corporation dated 02.04.2004 at Item No. 110.07 by which it has been decided to continue the ban on compassionate and further to fully stop the compassionate appointment in future also without assigning any reason whatsoever."



The impugned order passed by the concerned authority of the Bihar State Food and Civil Supplies Corporation (hereinafter to be referred to as 'the Corporation') according to learned counsel for the petitioner is bad both on fact and in law because the so-called plea of there being a decision of the Board of Directors of the Corporation not to make any compassionate appointment in the year 1996 is itself non-existent. He has also gone to submit that in the year 2004 when the Board of Directors had sought to reiterate the non-existent decision of the year 1996, that also cannot be held to be correct either on the fact or in law.

In the considered opinion of this Court, the core issue will be as with regard to consideration of the claim of the petitioner for appointment on compassionate appointment. As is well known and well settled that the appointment on compassionate ground has to be made on the basis of the scheme. Nothing has been brought on record by the petitioner to show that the scheme exists in the Corporation for appointment on compassionate ground. Whatever is being referred as a past practice prior to 1996 which has been claimed to have stopped by the Corporation from the year 1996 can not by itself be called to be a scheme.

The specific case of the respondents before this Court either in the earlier writ application filed by the petitioner or even in this writ application is that no appointment is being made in the

Corporation on compassionate ground since 1996. The petitioner has not been able to bring a single example of any such appointment on compassionate ground being made after 1996.

If that be so, the petitioner cannot claim any preferential right of being appointed on compassionate ground. Let it be noted that power of judicial review of this Court cannot extend to examination of policy decision of the Corporation when it has as a matter of principle decided not to make any appointment on compassionate ground. The concept of compassionate appointment, being neither a constitutional right nor a statutory right, if there is no prevalent scheme in the Corporation for appointment on compassionate ground, this Court will not go into the issue as to whether there is availability of work for making appointment in Corporation. This Court will only have to go by the settled law that if there is no scheme or practice prevalent in the Corporation since 1996 for making appointment on compassionate ground, the impugned order, denying the claim of the petitioner for appointment on composite ground, does not suffer from any error.

That being so, this application fails and is hereby dismissed.

(Mihir Kumar Jha, J)

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