

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1996 of 2014

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Raj Kishor Yadav Son Of Sri Jagdish Yadav Resident Of Village - Arjuna Bijulia,
P.O. - Dekuli Dham, P.S. - Biroul, District - Darbhanga

.... Petitioner

Versus

1. The State Of Bihar Through The Joint Secretary Of State, Food And Consumer Protection Department, Old Secretariat, Patna
2. The District Magistrate-Cum-Chairman, District Selection Committee, District - Darbhanga
3. The Sub-Divisional Officer, Biroul, District - Darbhanga

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Rajeev Kumar Labh, Advocate
For the State	:	Mr. Anil Kr Uapdhyay, SC 20 Mr. Naresh Prasad, AC to SC 20

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 12-07-2016

Heard parties.

Petitioner is aggrieved by Annexure 1 which is communication dated 18th October, 2012 which has been obtained by the petitioner under the Right To Information Act. It appears from Annexure 1 that the District Level Selection Committee had taken a decision to reject the application of petitioner on 21.08.12 itself but it is contented on behalf of the petitioner that he was never supplied any copy of such decision regarding rejection of his application for grant of PDS licence, therefore, he sought information under the Right To Information Act.



The information contains the decision of the District Level Selection Committee presided over by the District Magistrate concerned on 21.8.2012 rejecting the petitioner's name on the ground that his deceased wife did not complete 8 years of minimum requirement of running the PDS shop. The aforesaid Annexure 1 indicates in clear terms that the petitioner's claim for grant of licence on compassionate ground has been rejected.

Learned counsel for the petitioner submits that the aforesaid issue was set at rest by a Single Judge Bench of this Court vide order dated 6.1.2012 passed in C.W.J.C. No. 64 of 2012 filed by him as contained in Annexure 2 holding in clear terms that the writ application was filed after six years without any explanation and, in view of the delay and laches on the part of the petitioner, it was held that he had given up his right to be considered for grant of PDS licence on compassionate ground as he has applied for grant of fresh licence. It is contended that, thereafter, there was no occasion for the competent authority for not considering the grant of fresh licence to the petitioner as if the same was being considered on compassionate ground. In fact liberty was given to the petitioner vide Annexure 2 to apply before the Sub Divisional Officer concerned for grant of fresh PDS licence and the authority was required to pass the order after considering all aspects of the matter. Petitioner claims that he has

applied for same vide Annexure 3 but authority concerned has misdirected itself by proceeding to consider the case of petitioner for grant of licence on compassionate ground in place of considering the same for grant of fresh PDS licence.

Statements made in counter affidavit also revolves upon the petitioner's competency to be given the licence on the compassionate ground. That being the situation, this Court would not have any hesitation in holding that there has been absolutely erroneous consideration by the authority concerned as after having been held by the High Court vide Annexure 2 that the door for grant of licence to the petitioner on compassionate ground is already closed, there was no occasion for considering the same once again. What was required to be done by the licensing authority was to be considered his case for grant of fresh licence in accordance with law which has not been done.

Accordingly, in my view the decision contained in Annexure 1 of the writ application as well as Annexure I of the counter affidavit, so far it concerns the petitioner, is quashed and set aside.

The matter is remitted back to the competent authority for fresh consideration of the matter on its own merit and in accordance with law within a period of three months from the date of

receipt / production of a copy of this order.

However, it is made clear that such action has to be taken only if the petitioner has applied for grant of fresh licence. If the authority finds that no application for grant of fresh licence has been filed by the petitioner then a decision to that extent would be required to be passed and communicated to the petitioner.

This writ application stands allowed to the extent as indicated above.

(Dr. Ravi Ranjan, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.09.2016
Transmission Date	NA