

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16575 of 2016

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Kameshwar Pandey Son of Late Vishvanath Pandey, Resident of Village- Chausa,
P.O. Chausa, Police Station Buxar (Muassil), District- Buxar.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food Supply & Commerce Department, Bihar, Patna.
2. The Chairman, District Level Selection Committee, Buxar.
3. The Collector, Buxar.
4. The Sub-Divisional Officer, Buxar.
5. The District Supply Officer, Buxar.
6. The Block Supply Officer, Chausa, District- Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rahul Nath, Adv.

For the Respondent/s : Mr. Sanjay Kr. Giri-GP-9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 25-04-2017

Heard learned counsel for the petitioner and counsel for
the State.

In the present case, the petitioner is aggrieved with a
Memo No. 60 आठ dated 31.1.2006 issued by the Sub-Divisional
Officer, Buxar, whereby and whereunder, the License No. 52/01,
issued in favour of his father, has been cancelled.

In this case, the petitioner is claiming to be the adopted
son of late Vishvanath Pandey, on his death, he filed an application
for issuance of license for running the P.D.S. Shop as his adopted
father Vishvanath Prasad had a license for the same.



Learned counsel for the petitioner submits that he was adopted as a son at the age of 12 years but, due to ignorance, in the matriculation certificate, the name of natural father has been inserted in place of late Vishvanath Pandey.

Learned counsel for the petitioner submits that the adoption deed itself bears the signature/thumb impression of the adoptee father as well as the natural father including the natural mother and adoptee mother but, the document is not a registered document rather a plain document, admittedly in the matriculation certificate, the name of natural father is appearing but, learned counsel for the petitioner submits that all the authorities have recognized the adoptee father as the Vishvanath Pandey.

In the counter affidavit, the State has denied the event of adoption as has been stated that there cannot be adoption at the age of 32 years in terms of the Hindu Adoption and Maintenance Act, 1956, as upper limit of age of adoption is 15 years except if custom is prevalent in the family and he further placed reliance on the letter of the Joint Secretary, Food & Consumer Protection Department contained in Letter No. 571 dated 30.1.2008 wherein it has been mentioned that the adoption of son or daughter has not been for granting benefit under the P.D.S. Scheme.

If the adoption is valid and proper, the status of the



adopted son will be at par with the natural son, he cannot be debarred from giving the benefit which would be given to the natural son but, the question in the present case is the factum of the adoption, which cannot be looked into in the present proceeding. Inasmuch as, the matter is pending before the Committee which has to take decision in accordance with law, let the Committee take a decision with respect to granting P.D.S. licence to the petitioner after considering the materials brought by the petitioner before that Committee.

The Committee is directed to take a decision in accordance with law within a period of four months from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.05.2017
Transmission Date	NA

