

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1100 of 2014
IN
Civil Writ Jurisdiction Case No. 13504 of 2010**

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Sri Rajeshwar Paswan Son of Ram Nandan Paswan resident of Village Dhekwaha,
P.S. Islampur, district- Nalanda.

.... Appellant/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The District Level Selection Committee related to Supply under the Chairmanship of District Magistrate, Nalanda.
3. The District Magistrate- cum- Collector, Nalanda.
4. The District Supply Officer, Bihar Sharif, Nalanda.
5. The Sub- Divisional Officer, Hilsa, Nalanda.
6. The Assistant District Supply Officer, Hilsa, Nalanda.
7. The Block Development Officer, Islampur Block in the district of Nalanda.
8. Block Supply Officer, Islampur Block in the district of Nalanda.
9. The Director- in Chief, Department of Health, Bihar, Patna.
10. Reena Kumari Sinha, wife of Sri Arun Paswan, resident of village- - Dhekwaha, P.S. – Islampur, District - Nalanda

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Sinha, Advocate Mr. Arbind Kumar
For the Respondent/s	:	Mr. Ranjan Kumar Singh, AC to PAAG-2

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 08-04-2017

Heard learned counsels for the parties.

The present appellant was an applicant, who came to
be awarded PDS license, at the cost of the private-respondent,



Reena Kumari Sinha. She decided to challenge such a decision by filing an I. A. No. 1137 of 2011 in C. W. J. C. No. 13504 of 2010.

Originally, Reena Kumari Sinha had moved the writ application for a direction upon the respondent-authorities, especially the District Magistrate, Nalanda to issue PDS license in her favour, for which a decision was taken. But, subsequently, when the fact emerged that husband of Reena Kumari Sinha was involved in forging certain documents etc. for renewal of a PDS license, a criminal case was filed and that became the reason for cancellation of the decision to grant PDS license to Reena Kumari Sinha.

Stand was taken on behalf of State before the Learned Single Judge that any direction in favour of Reena Kumari Sinha for issuance of a PDS license would send a wrong message to the society, since her husband was involved in a criminal case and was found using forged documents for renewal of a PDS license. However, the Learned Single Judge rejected such a plea and stand on the ground that the criminal case was against husband of the petitioner and she was not an accused. For the act of her husband, she cannot be punished, because there is no vicarious liability in criminal cases.

The other plea or the objection, which was raised, was that Reena Kumari Sinha was an Asha worker and, therefore, she was holder of an office of profit and she could not be appointed as a PDS dealer. This aspect was also negated, because the final word



on the status of Asha worker being holder of an office under the State is not made out. It is more of a voluntary work and no regular remuneration is paid by the State. That being the position in fact, the Learned Single Judge refused to go by the second line of objection of an Asha worker being holder of an office of profit.

Since the present appellant became the direct beneficiary of the cancellation of the decision to award PDS license in favour of Reena Kumari Sinha and her success in the writ application had a fall out upon the present appellant, he decided to challenge the order of the Learned Single Judge, dated 04.07.2014 in the present appeal.

None of the grounds, based on which the license, which was initially granted and later on cancelled, are cogent and legal grounds, which were taken before the Learned Single Judge. He has rightly held that the reason for cancellation or refusal to grant license are not cogent and valid reasons, which can come in the way of such grant.

Learned Single Judge has further left the matter open that as and when if a Division Bench decides that Asha worker is a holder of office of profit under the State, the license granted in her favour can be revisited.

This being so, the Court is of the opinion that the rational and reasoning for allowing the writ application by the Learned Single Judge does not suffer from any irrationality or



illegality, which is required to be corrected or revisited in this appeal.

Appeal has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

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