

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20115 of 2013

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Vidyanand Paswan Son Of Late Kusheshwar Paswan Resident Of Village Sarai, Police Station- Patori, District- Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Consumer Protection, Government Of Bihar, Patna
2. The Principal Secretary, Department Of Consumer Protection, Government Of Bihar, Patna
3. The Chairman Of District Selection Committee Cum District Magistrate, Samastipur
4. The Sub Divisional Officer, Patori, District- Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anand Kumar Ojha, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha, SC-19
		Mr. Saurabh Kumar, AC to SC-19

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date : 26-03-2018

Heard learned counsel for the petitioner and the State.

Through this writ application, the petitioner seeks quashing of the order dated 20.08.2013 passed by the District Selection Committee headed by the District Magistrate, Samastipur by which the petitioner's claim for grant of P.D.S. Licence has been rejected.

This is the second time the petitioner has approached this Court. On the first occasion, the petitioner filed CWJC No.21818/2011 which was disposed of vide Annexure-2 dated



26.04.2013. The relevant paragraph is extracted from that judgment as under :-

“However, in view of the limited prayer made at the time of hearing of this writ application, the same is being disposed of, without going into the merit of the case, with a direction to the District Level Selection Committee headed by the District Magistrate-cum-Collector, Samastipur to take a decision with regard to the grant of PDS licence in favour of the petitioner as it is claimed that despite recommendation by the competent authority no final decision has been taken with respect to that. Let such decision be taken within six weeks from the date of production of a certified copy of this order by the petitioner. It is expected that the concerned authority would also consider the principles laid down by this Court in the orders dated 6.9.2012, 7.1.2013 and 1.3.2013 passed in C.W.J.C. Nos. 3809/2011, 98/2013 and 20331/2011 respectively while taking the relevant decision”.

Therefore, the matter was considered by the District Selection Committee. It has been stated in the impugned order that in fact, at the time of meeting on application, there was no vacancy and no advertisement, therefore, there was no occasion on part of the petitioner at all to file an application for grant of PDS licence in the year 2008. Secondly, the application was not in the prescribed format and in view of prevailing control order, namely, Public Distribution System (Control) Order, 2001 which was made applicable in the State of Bihar since 22.02.2007, every application in prescribed format was required to be filed before the Licensing



Authority. The petitioner did not apply before the Licensing Authority in the prescribed format rather he had applied before the Block Development Officer.

It is stated in paragraph 8 of the counter affidavit that the Supply Inspector sent a recommendation for grant of PDS Licence in favour of the petitioner though the Licensing Authority had not called for any such report from him and for that an explanation had also been sought from the Supply Inspector by the competent authority. Secondly, it is stated that in the year 2008, vacancy was already full. PDS licencees were already and, as such, there was no possibility for grant of any licence in favour of the petitioner. Subsequently, by the amendment in the Control Order brought in the year 2011, the licence to individual was excluded. However, it is urged at the bar that amendment has already been set aside but a new Targeted Control Order has also come in the year 2016. Therefore, it would not be possible to grant licence to the petitioner under the old provision.

This Court finds force in the submission made on behalf of the State.

In the aforementioned facts and circumstances of the case, if there was no vacancy at the earliest stage, licence could not have been granted to the petitioner specially when the petitioner did not



apply before the competent authority in proper format. Now, it would not be possible to grant him licence under the old control order which is not in existence now.

As a result, this writ application is dismissed.

However, the petitioner would be at liberty to apply afresh if vacancy is created and, in such a situation, his case should be considered in accordance with the prevalent law.

(Dr. Ravi Ranjan, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
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