

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10188 of 2016

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Shyamdeo Sharma Son of Late Gaya Singh, Resident of Village - Chande, P.O. -
Awgil, P.S. - Korma, District - Sheikhpura.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The District Magistrate - cum - Chairman, Selection Committee, Sheikhpura.
3. The District Supply Officer, Food and Civil Supplies Sheikhpura.
4. The Sub - Divisional Officer, Sheikhpura.
5. The Block Supply Officer, Ghat Kusumbha (Sheikhpura).
6. Lalan Kumar, Son of Ramotar Yadav, Resident of Village - Chunnipur, P.O. - Pathraita, P.S. - Korma, District - Sheikhpura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Adv.
For the Respondent/s : Mr. Nawal Kishore Singh- SC-2
For the BSFC : Mr. Shailendra Kumar Singh, Adv.
For the Private resp. : Mr. Sushmita Mishra, Adv.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

CAV JUDGMENT

Date: 27-08-2018

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel appearing on behalf of private
respondent no. 6.

Petitioner in the present writ application seeks quashing of
the part of the selection list issued by Memo No. 126 dated
25.02.2016 as contained in Annexure-5 by which the respondent no. 2
i.e. the District Magistrate-cum-Chairman, Selection Committee,



Sheikhpura without giving preference to the petitioner being a Chairman of PACS of Awgil Chande selected private-respondent no. 6 for allotment of licence in relation to PDS shop under gram Panchayat Raj Purena Block in the District-Sheikhpura.

Learned counsel for the petitioner challenges his non-selection as a PDS dealer by the respondent no. 2 on the ground that as per the advertisement for selection of PDS dealers vide Memo No. 79 dated 20.04.2015 as contained in Annexure-1, the preference had to be given to certain categories which included preference to the PACS as per clause 2 of the advertisement. He also contends that the select list has been prepared taking into account only higher educational qualification.

After the counter affidavit was filed showing the reason for cancellation of his candidature by the Selection Committee under the Chairmanship of respondent no. 2 dated 04.02.2016 the only ground being that an F.I.R. has been lodged against the petitioner, hence his candidature has been rejected, the petitioner also submits that merely filing of an F.I.R. would not disentitle the petitioner for selection as a PDS dealer as postulate at clause 3 (३) of the advertisement is if a person has been convicted by a court of competent jurisdiction disentitles a person for PDS dealership.

Learned counsel for the State has filed a counter affidavit



stating therein that applications were called for a single allotment of PDS dealer under the Gram Panchayat Raj Purena Block in the District of Sheikhpura for an unreserved category of candidate. The respondent no. 6 was selected and was placed at serial no. 1 of the provisional select list who had filed an application before the District Magistrate, Sheikhpura stating therein that the petitioner is a criminal minded person against whom Korma P.S. Case No. 80 of 2014 has been lodged under Sections 147, 148, 149, 341, 323, 324, 325, 307, 427 and 504 of the Indian Penal Code and on 16.12.2015 the Judicial Magistrate, First Class, Sheikhpura has taken cognizance against the petitioner. Hence, a PDS dealer who should be a person of good character as a PDS shop caters to persons below poverty line and who are given food-grains and K.Oil on subsidized rates. He submits that from the allegations made in the F.I.R. being Korma P.S. Case No. 80 of 2014, it is evident that the petitioner along with other persons have created obstacles abused and assaulted the local villagers who had taken out procession during idol immersion.

Learned counsel for the private respondent no. 6 contends that the clauses of advertisement has to be read harmoniously. Clause 1 of the advertisement specifies educational qualification and preference has to be given for higher qualified candidate. Thereafter at clause 2 specific classes, groups and cooperative societies are given



preference. She further urges that the petitioner is only a matriculate whereas the respondent no. 6 is a graduate, post graduate and a computer literate hence, the selection of the respondent no. 6 was made as a PDS dealer. She further submits that grant of licence under the Bihar PDS (Control) Order, 2007 is not confined to certain societies or association of persons as giving priority or preference to PACS or association of persons or certain groups or classes would amount to 100% reservation as held in the case of **Fair Price Dealers Association Vs. The State of Bihar & Anr.** since reported in 2015 (2) PLJR 865 and in the case of **Bihar Pradesh Jan Bitran Pranali Dukandar Sangh Vs. The State of Bihar** passed in C.W.J.C. No. 15157 of 2011 and other analogous cases decided on 20.12.2013. She further submits that the respondent no. 6 has been appointed as a PDS dealer by the Selection Committee on 04.02.2016 and has been running the PDS shop efficiently without any adverse finding against him.

After hearing the counsel for the petitioner, learned counsel for the private respondent no. 6 and learned counsel for the State, this Court is of the considered view that clause 1 of the advertisement postulated preference for persons with higher educational qualification and respondent no. 6 being more qualified than the petitioner as from the provisional list as contained in



Annexure 4 of the writ application the petitioner stands at serial no. 1. No doubt merely lodging of an F.I.R. would not disentitle a person from being appointed as a dealer of PDS shop but in the present case cognizance has been taken against the petitioner on 16.12.2015 as contained in Annexure-B by the Judicial Magistrate 1st Class Sheikhpura and that the allegation in the F.I.R. is that the petitioner assaulted and abused the local villagers who had taken out of procession during idol immersion. There is no adverse finding against the respondent no. 6 that the PDS shop allotted to him is not carrying out of his duties, obligations and functions as a PDS dealer.

Hence, considering the above facts, writ application is devoid of merit. It is dismissed.

(Nilu Agrawal, J)

Devendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27.08.2018
Transmission Date	NA

