

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1209 of 2019

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Rinku Kumari Brajesh Kumar Yadaw Resident of Rampurva, Post-
Mahanwa, P.S.- Majhauriya, West Champaran

... .. Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
4. The Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
5. The District Officer-cum- Collector, West Champaran at Bettiah.
6. The Sub Divisional Officer, Bettiah Sadar, West Champaran.
7. The District Supply Officer, Bettiah Sadar, West Champaran.
8. The Block Supply Officer Manjhauriya Block, West Champaran.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Verma, Advocate
For the Respondent/s : Mr. Alok Ranjan AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 18-01-2019 The petitioner in the present case has moved this

court for the following reliefs:

“A. To issue P.D.S. license to petitioner being Senior Most on basis of educational qualifications of Matriculation with 1st Division, Intermediate with 1st Division and B.A. Hons. With 2nd Class in accordance with seniority with her placement at Sl. No. 1 in the merit list of one vacancy of P.D.S. Shop under unreserved woman category of Rampurva Mahanwa Panchayat under Manjhauriya Block, West Champaran as per statutory Rule 9 of Bihar Targeted Public Distribution System (Control) Order, 2016 by



amending her placement at Sl. No. 1 instead of Sl. No. 3 in the said merit list of vacancy of P.D.S. shop under Rampurva Mahanwa Manchayat of Manjhauliya Block, West Champaran dated 27.08.2018 accordingly in conformity with & in compliance of said Rule, Justice & Law as Respondent Authorities with adoption of pick & choose system by flouting the said Rule arbitrarily, deliberately & knowingly, tempered with seniority of petitioner while petitioner was required to be placed on the top of said merit list at Sl. No. 1 in the eyes of Rules & Law.

B. To issue P.D.S. License to petitioner against said one vacancy also on consideration of grounds that she is resident of revenue village, Rampurva, where population is more than 25000 with increase numbers of peoples of Harijan community (SC/ST) against parameter of population of 1900 Shop & Population of 1000 of Harijan Community with requirement of 2 (Two) P.D.S. Shops as such against population of more than 2500 of Revenue Village Rampurva aforesaid and that Rampurva Mahanwa Panchayat is composed of 6 revenue villages, out of these 6 villages, 6 P.D.S. Shops are already operating in three villages including Mahanwa and that there is no P.D.S. Shop in rest 3 villages i.e. (1) Saimuapur, (2) Rampurva and (3) Surahi Tola and as such people of these localities used to collect kerosin oil & other materials after covering distance of 5 kilometer against parameter of maximum distance of 2 kilometers to be covered for opening one P.D.S. Shop as per Rule 9(ii) of



Bihar Targeted Public Distribution System (Control) Order, 2016 and that petitioner is senior most all selected 13 candidates by confining said vacancy of Rampurva Mahanwa Panchayat for Revenue village Rampurva only or alternatively by creating 2 required vacancies of P.D.S. Shops in the said Revenue village Rampurva as per statutory Rule 9(i)(ii)(iii) of Bihar Targeted Public Distribution System (Control) Order, 2016.

C. For prohibiting/restraining/staying issuance of P.D.S. License to any other candidate against said one vacancy of P.D.S. Shop under unreserved woman category of Rampurva Mahanwa Panchayat under Majhauriya Block, West Champaran pending disposal of this writ application.

D. And also for other necessary reliefs/writ/orders & directions in view of factual & legal profiles of this case.

In course of argument, learned counsel for the petitioner was able to understand that by obtaining better marks in a particular course or examination from that of the co-applicant the petitioner cannot claim to have obtained higher qualification. Obtainment of better marks in the same examination in which both the petitioner and private respondent have appeared is one thing whereas obtainment of higher qualification is quite different and distinct.



In the present case, it is an admitted position that both the petitioner as well as the private respondent are graduate, though Annexure-3 to the writ application does not show the petitioner being a graduate but this court would believe the statement made at the bar on behalf of the petitioner that petitioner is a graduate. Still the position does not change. Both the petitioner as well as the private respondent are having computer knowledge, therefore, in terms of the advertisement as contained in Annexure-2 to the present writ application, the private respondent being older in age gets preference, therefore no fault could be found with the preparation of the merit list (Annexure-3). Prayer of the petitioner with that regard has no basis and is rejected.

Learned counsel for the petitioner has made an alternative submission pointing out from the Bihar Targeted Public Distribution System (Control) Order, 2016 particularly Rule No. 9 wherein it is prescribed that there shall be one fair price shop for the population of 1350 in urban areas and for the population of 1900 in rural areas on the basis of



the census data prevailing at the time.

Learned counsel also points out Clause (iii) of Rule 9 which states that "*In distant and difficult communication areas, especially in the areas of the scheduled castes/tribes, a fair price shop may be allotted for a population of 1000.*"

learned counsel submits that the petitioner is a resident village of Rampurva where population is more than 2500 with increase numbers of peoples of Harijan community (SC/ST), therefore the village satisfies the parameters of population of 1900 for allotment of one P.D.S. Shop. It is submitted that in this respect the Mukhiya of the Gram Panchayat of Rampurva Mahanwa has made representation dated 27.07.2018 to the Principal Secretary, Food and Consumer Protection Department, Government of Bihar. A copy of the representation is placed at Annexure-4 to the writ application.

It is submitted that keeping in kind the kind of difficulties people are facing in the said village visiting 5 kilometers for getting the allotment of ration and kerosene oil, the Principal Secretary, Food and Consumer Protection



Department, Government of Bihar be directed to consider the request as contained in Annexure-4 and take an appropriate decision thereof.

Prima facie, learned counsel for the petitioner has been able to satisfy this court as regards the prayer made for allotment of one P.D.S. Shop in the village which is said to be situated at a distance of 5 kilometers from the village in which the present P.D.S. Shop is situated. This court would thus direct the Principal Secretary, Food and Consumer Protection Department, Government of Bihar to consider Annexure-4 to the present writ application in the light of Rule-9 as aforesaid and take an appropriate decision thereon in accordance with law. Such decision shall be taken within a period of three months from the date of receipt/production of a copy of this order.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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