

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1201 of 2019

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Ranvijay Paswan, son of Late Sukhdeo Paswan, Resident of Ward No. 6,
Madhuban, P.S. Udakishunganj, District- Madhepura.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Madhepura cum the Chairman District Selection Committee, Madhepura.
3. The District Supply Officer, Madhepura cum the Secretary, District Selection Committee, Madhepura
4. The Sub- Divisional Officer, Udakishunganj, Madhepura.
5. The Block Supply Officer, Udakishunganj, Madhepura.
6. Soni Kumari, wife of Rajesh Kumar D/o Bijay Kumar Das resident of Ward No. 4, Madhuban, P.S. Udakishunganj, District Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mukesh Kumar Jha
For the State	:	Mr. U.P. Singh, AC to SC-4
For the Respondent no.6	:	Mr.Mritunjay Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 05-04-2019

Heard learned counsel for the parties.

This writ application has been preferred challenging the selection of respondent no.6 for grant of Public Distribution Shop Licence (hereinafter referred to as the 'PDS') for ward no.6 of Madhuban Panchayat in the district of Madhepura. The petitioner also prays for a direction to the respondents to select him after proper inquiry and in accordance with the guidelines.

The brief facts of the case are not in dispute. The petitioner as well as the respondent no.6 were the applicants for



the PDS licence for the Madhuban Panchayat which was reserved for Scheduled Caste as per reservation roster. It is the case of the petitioner that the licence was to be granted for ward no.6 and he was only suitable candidate among the three applicants. As regards the respondent no.6, it is alleged that her name was at serial no.3, but she is not the resident of concerned ward. Since the Block Supply Officer recommended names of all the three applicants, the petitioner and the private respondent no.6 both raised objection against each other. Against the petitioner a plea was raised by the respondent no.6 stating that the petitioner had no knowledge/certificate of computer, but after rejecting the said objection petitioner was selected.

It is the case of the petitioner that the Selection Committee however changed its decision taking note of the higher marks and computer knowledge of respondent no.6 and respondent no.6 was selected against which the petitioner made representations to the District Magistrate. A copy of the selection list dated 28.09.2018 and representations of the petitioner are enclosed as Annexure-4, 5 and 6 to the writ application.

Basically three grounds have been raised in the writ application against the appointment of respondent no.6. The first ground is that she is the resident of ward no.4, therefore she was



not eligible to make application for selection as the vacancy is for ward no.6, secondly it is stated that the respondent no.6 is not belonging to the Scheduled Caste as the father of respondent no.6 is by caste Baniya which is not Scheduled Caste, but caste of her husband has been taken into consideration. The third ground taken is that at the time of making application respondent no.6 was working in a school, which is a government aided school, so she could not be selected as per Bihar Targeted P.D.S. (Control) order, 2016. It is alleged that at the time of making application she was required to submit an affidavit with her application.

Contesting the submissions of the petitioner, a counter affidavit has been filed on behalf of the private respondent. It is her submission that she has been selected for Madhuban Panchayat and not for ward no.6 of Madhuban Panchayat. The applications, according to the respondent no.6, were invited from the residents of the wards of concerned panchayat and it was not confined to any particular ward of the panchayat. It is further stated that the respondent no.6 being a member of the Scheduled Caste and having all requisite qualification had applied for licence. So far as the petitioner is concerned, he did not possess knowledge of computer and submitted a forged certificate of knowledge of



computer and the description of godown given by him was part of his residence which is of a temporary nature.

It is pointed out that the respondent no.6 is Post-Graduate and her computer certificate is also original as she obtained it after attending classes and further her godown is pucca construction. It is submitted that the name of the petitioner was shortlisted among the three candidates and the petitioner was provisionally selected after consideration of objection filed by the respondent no.6. The objections were invited by the authorities and thereafter the respondent no.6 filed her objection which was considered.

The respondent no.6 has categorically stated in paragraph '15' of her counter affidavit that the contention of the petitioner that the respondent no.6 is by caste Baniya and has submitted her caste certificate as Scheduled Caste on the basis of her husband is totally false as even as per her father, she belongs to Scheduled Caste which is apparent from the caste certificates dated 22.08.2017 and 15.02.2018 respectively granted to her taking into consideration the caste of her husband namely Rajesh Kumar as well as her father namely Vijay Kumar. Annexure-R-6/C series have been enclosed to show that she possess a valid caste



certificate. It is the contention of the respondent no.6 that the caste certificate of the respondent no.6 is not under challenge.

The respondent no.6 has also opposed the contention of the petitioner that she was working in a government aided school. It is her submission that Annexure-1 to the writ application whereby the applications were invited for selection of P.D.S. Dealership in question only stipulates that the Dealership shall not be provided to the person holding the office of profit under the government. The private respondent no.6 submits that she was appointed in a private school (Anudanit) on adhoc basis on 5.7.2014 as physical teacher and government grants aid to the school on the basis of performance of the students and since the date of her appointment she has not been paid/received a single penny by/from the school and furthermore she had resigned on 28.08.2018 from the said post of Physical Teacher which was accepted by the Principal of the said school on the same day. It is also stated that even the husband of the respondent no.6 has not received any amount from the said school.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that the respondent no.6 has categorically contested all the three grounds raised by the petitioner. It is not in dispute that she is a Post-Graduate and



possess certificate of computer knowledge. The respondent no.6 has also brought on record two caste certificates showing that she belongs to Scheduled Caste. The certificates are still valid as the same has not been cancelled by the competent authority. In the present proceeding, this Court is not considering the legality and validity of the caste certificates of respondent no.6. The only thing which is required to be seen by this Court is as to whether the decision making process in the matter of selection of respondent no.6 is suffering from any arbitrariness.

On perusal of Annexure-1 to the writ application, it is evident that the applications were invited from the eligible candidates of the different panchayats, one of which was Madhuban Panchayat within Bihariganj Block under the same subdivision. Annexure-1 nowhere shows that the application was invited on ward basis. Thus, the contention of the petitioner that he being the resident of ward no.6 should have got priority would not appeal to this Court. As regards the allegation that the respondent no.6 was a school teacher, it has been found that as per Annexure-‘1’ certain persons were not eligible to get allotment of shop. One of the conditions prescribed under paragraph 5 of Annexure-1 is that the persons should not be holding a post of profit in the government. The respondent no.6 has explained that



she was engaged in a private school (Anudanit) as a physical teacher which cannot be said to be holding a post of profit in the government, moreover she has also explained that from teaching work she had not received a single penny.

In view of the aforesaid findings, this Court finds no reason to interfere with the decision of the respondent authorities.

This writ application has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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Uploading Date	
Transmission Date	

