

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4136 of 2019

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Dilip Kumar Son of Shiv Ji Prasad Sah @ Shiva Ji Prasad, Resident of Village- Bela, P.O.- Mirpur, Panchayat- Madhubani, P.S.-Chairaiya, Block, Chiraiya, District-East Champaran

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Food Civil Suplier Public Distribution System (P.D.S.) Department , Government of Bihar, Patna
3. The Chairman, of Selection Committee-Cum-District Magistrate, East Champaran at Motihari
4. The District Magistrate, East Champaran at Motihari
5. The D.D.C., East Champaran at Motihari
6. The District Supply Officer, East Champaran at Motihari
7. The Sub-Divisional Officer, Sikrahana, Dhaka, East Champaran
8. The Sub-Divisional Marketing Officer, Sikrahana, Dhaka, East Champaran
9. The Satendra Kumar Son of Ramakant Thakur, Resident of Village-P.O.- Madhubani Kala, P.S.-Chiraiya, District-East Champaran

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar No1, Advocate
For the Respondent/s : Mr.S. Raza Ahmad (Aag5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 15-07-2019 The petitioner in the present case is seeking the following reliefs:-

“I. For issuance of any appropriated writ/s, rules or direction especial in the nature of Mandamus directing to the respondents concerned to quash the name of respondent No.9 from the list of allotment of P.D.S. Shop containing Memo No.122 dated 28.11.2018 passed by Chairman, District Selection Committee -cum- District Magistrate, East Champaran stands as Sl. No.-25 of Sikrahana Sub-division, Chiraiya Block, Madhubani Panchayat whereby and where under on the license of the shop of



P.D.S. granted lower marks persons – available higher marks persons belongs to same B.C.-I category.

II. For issuance of writ/s, rule or directions especial in nature of mandamus directing to respondent concerned to allot the license of P.D.S. shop to the petitioner for Madhubani Panchayat, Block-Chiraiya, Sub-divisional Dhaka District East Champaran, because petitioner is- I higher marks persons of D.C.-I category in concerned P.D.S. Shop Panchayat.

III. For issuance of any appropriate writ/writs, order/orders, direction/directions for which the petitioner is legally entitled.

IV. For further During pending of this writ application the operation of MemoNo 122 dated 28.11.2018 passed by District Selection Committee -Cum- District Magistrate, concerned Sl.No.25 of Madhubani Panchayat, Block – Chiraiya, Sub-division– Sikranaha, may kindly be stayed.”

The case of the petitioner is that he applied for allotment of the P.D.S. shop as he had obtained better marks in the Intermediate examination. His grievance is that ignoring his candidature the private respondent No. 9 has been granted allotment of license for Madhubani Panchayat, Block Chiraiya, Sub-division Sikrahana Dhaka, East Champaran. In this regard he has also said to have submitted a representation dated 15.12.2018 by registered post to the District Magistrate, East Champaran at Motihari and other authorities.

A counter affidavit has been filed on behalf of the State. It is stated that the petitioner did not disclose the required



information in his application. Column No. 3 to 6, 9 and 10 of the application were left blank. It is stated that in terms of the advertisement the incomplete application forms were not to be considered for grant of license. It is further stated that the petitioner had Intermediate certificate having 334 marks i.e. 66.8% marks whereas respondent No. 9 holds graduation degree having 68.72% marks. It is stated that after publication of the formal merit list of the applicants, objections were invited and thereafter considering the objections the recommendations were made by the District Selection Committee to grant license to respondent No. 9. It is also pointed out that as per Clause 32(iii) of the Bihar Targeted P.D.S. (Control) Order, 2016 (hereinafter referred to as the 'Control Order, 2016'), the order of the Licensing Authority is appealable before the Collector.

In the aforesaid view of the matter as this Court is not willing to exercise its writ jurisdiction, learned counsel for the petitioner submits that since his representation is pending before the Collector, the same may be considered as an appeal and be considered in accordance with law.

Learned counsel for the State has no objection.

In the given facts and circumstances of the case, this writ application is being disposed off with liberty to the



respondent No. 4 i.e. the District Magistrate, East Champaran at Motihari to look into the representation of the petitioner, consider the same within the statutory period in terms of the Control Order, 2016 and pass an appropriate order thereon after hearing all concerned. If he proposes to pass any order adverse to the interest of private respondent, a chance of hearing must be given to him.

This writ application stands disposed off.

(Rajeev Ranjan Prasad, J)

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