

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4481 of 2019

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Aniruddh Das Son of Lakhan Lal Das, Resident of Village- Dhaja, Dakshini Kosi, Gram Panchayat, P.S.- Fullidumar, District- Banka.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna
2. The Principle Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna
3. The Director, Food and Civil Supply Department, Govt. of Bihar, Patna
4. The District Magistrate, Banka, District- Banka
5. The District Supply Officer, Banka, District- Banka
6. The Sub Divisional Officer, Banka, District- Banka
7. The Asst. District Supply Officer, Banka, District- Banka
8. The Block Development Officer, Banka, District- Banka

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Advocate
For the Respondent/s : Mr.Arvind Ujjwal (Sc4)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 16-07-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner in the present case is himself a Fair Price Shop dealer. He has moved this Court for quashing of the Advertisement dated 19.05.2018 issued under signature of the Sub-Divisional Officer, Banka by which applications have been invited for grant of Public Distribution System shop license in Gram Panchayat – South Kojhi. It is the grievance of the petitioner that in terms of the populations the said Gram



Panchayat has a population of 11245, there are already six P.D.S. Dealer and as per the notification dated 10.03.2016 in rural areas on a population of 1900 one P.D.S. Dealer is to be provided. It is, thus, his submission that there is no vacancy in the Gram Panchayat – South Kojhi within the Fullidumar Block in the District of Banka. He has also prayed for quashing of the roster issued under signature of S.D.O., Banka by which three more vacancies have been sanctioned for the said panchayat.

Learned counsel for the State submits that the writ application is in fact only misconceived. Firstly, for the reason that the petitioner has no *locus standi* to challenge the sanction of additional vacancies of Fair Price Shop and secondly that in terms of Rule 9(iii) of the Bihar Targeted P.D.S. (Control) Order, 2016 (hereinafter referred to as the ‘Control Order of 2016’) the competent authority may provide for Fair Price Shops in difficult areas particularly those of scheduled caste/scheduled tribe on a population of 1000 persons. It is his submission that the aim and object of the grant of Fair Price Shop license is to make available foodgrains and other essential commodities to those persons who are in need of that and in no case a licensee can object to grant of additional licenses by the licensing authority on the ground that it takes away some profit margin of



the licensee. Maximization of profit of the licensee is not and cannot be a ground to challenge the grant of additional license. It is further submitted that in C.W.J.C. 3018 of 2019 (**Siyaram Singh and others Vs. The State of Bihar and others**) this Court has in almost similar circumstance taken a view in favour of grant of additional license.

Having heard learned counsel for the petitioner and the State, this Court finds that in this case the petitioner had been granted license for Fair Price Shop on 16.01.2012. In the year 2018 the impugned advertisement was issued for the vacant post of P.D.S. Dealer in the Banka Sub-division which includes the Block of the petitioner. The total vacancies includes 36 in Gram Panchayat – South Kojhi. The petitioner is challenging the same on the ground that in the said Gram Panchyat six dealers are already engaged and have been granted license.

This Court finds that the petitioner has moved this Court on a wholly misconceived understanding of the aim and object of the Control Order of 2016. The object of the Control Order is to provide foodgrains and other essential commodities at the government subsidised rates to the population who are in need of the same.

“9. The following facts shall be considered in allotting a fair price shop by the



Selection Committee.-(i) 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.

(ii) It shall be ensured that a consumer should not cover a maximum distance of more than two kilometer in reaching his fair price shop both in rural and urban areas.

(iii) 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.

(iv) The self help groups or cooperative societies of women/ex-servicemen shall be deemed to belong to in that class (such as scheduled caste, scheduled tribe, extremely backward class, backward class, backward class women and general) in which more than 50 percent of the members of the managing committee of such self help groups or cooperative societies of women/ex-servicemen, belong to, for the purpose of determination of their reservation status.

(v) The applicant of a fair price shop's license must be matric pass and an adult:

Provided that the applicant having computer knowledge shall be given priority. In case of equality in computer knowledge, the applicant having highest qualification and in case of equality in highest qualification also the applicant of older age shall be given priority.

(vi) In case, a cancelled license is in appeal or in revision, and the lower court's order is stayed, such cancelled license shall not be enumerated in the list of vacant fair price shops.

(vii) The process of filling up vacant fair price shops shall be a continuous process, and a vacant fair price shop shall be filled up within a month from its vacancy.



(viii) After approval of the District Officer on the reservation roster point prepared in accordance with the reservation roster point determined by the General Administration Department applications shall be invited for filing up the vacant fair price shops by advertisement at least in two daily news papers.

(ix) Against unreserved vacancies, persons of all classes may submit application, and the selection shall be made purely on merit, and their status shall be unreserved.

(x) The license for a fair price shop shall be issued in the name of self help groups and cooperative societies of women/ex-servicemen and its operation shall be made by their managing committee.”

No doubt under the Rule it is provided that on a population of 1350 in the urban areas and 1900 in the rural areas one Fair Price Shop would be provided but at the same time under Rule 9(iii) of the Control Order of 2016 it is also provided that in respect of the difficult places particularly in the areas of scheduled caste and scheduled tribe such Fair Price Shop may be at the population of 1000 only. On a total understanding of the aim and object of the Control Order to this Court it appears that the number of population provided under the Rule is only a guiding factor, it is minimum, which is prescribed and the same cannot be interpreted to be a bar on the part of the competent authority in providing more number of Fair Price Shops if it is so required in a particular area. Maximisation of profit to one



dealer is not the aim and object of the Control Order. Individual interest of the petitioner must give way to the larger public interest. Convenience of the beneficiaries must be the prime consideration.

Any interpretation restricting the power of the competent authority to allot more number of Fair Price Shops would be contrary to the aim and object of the Control Order of 2016.

For all these reasons, this Court finds that the writ application has no merit, it is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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