

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.951 of 2017

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Ganesh Prasad aged about 35 years, Son of Sri Siyaram Sao, resident of Village- Goh, Post Office and Police Station- Goh, District- Aurangabad.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The District Magistrate, Aurangabad.
4. The Sub-Divisional Officer, Daudnagar, Aurangabad.
5. The Block Supply Officer, Goh, Aurangabad.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, 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

3 01-02-2019 Heard learned counsel for the petitioner and learned counsel representing the State.

The petitioner is aggrieved by order dated 31.10.2014 passed by the Sub-Divisional Officer, Daudnagar, as contained in Annexure-3 to the writ application by which the Sub-Divisional Officer has rejected the application of the petitioner for grant of license of a Public Distribution Shop.

The facts apparent from the record suggest that this petitioner was an applicant for appointment as a fair price dealer. Sometime in the year 2003, the petitioner had, pursuant to the direction of the Licensing Authority, deposited the amount of license fee on 12.01.2004, but thereafter no license was issued in his name. The father of the petitioner was having



Public Distribution Shop in Gram Panchayat Amari, he died in the year 2008, and thereafter the elder brother of the petitioner applied for a compassionate issuance of license of the shop which was being run by his father. This petitioner consented to the said request of his elder brother and gave no objection to the same. The elder brother was thus given license of the Public Distribution Shop which is being run by father of the petitioner in the year 2008 itself. Three years thereafter the writ application, which was earlier preferred by this petitioner in the year 2006, came for consideration before this court and then a direction was issued to the Licensing Authority, i.e., Sub-Divisional Officer, Daudnagar to consider the request of the petitioner for grant of license in accordance with law as early as possible and in any case within a period of two weeks from the date of receipt/production of a copy of the order.

By virtue of the order dated 01.03.2011, passed in CWJC No. 3991/2006, the case of the petitioner got opened for consideration but it appears that it took a long time to the respondents to consider the case of the petitioner and take a decision thereon. Vide impugned order dated 31.10.2014, the Licensing Authority considered the case of the petitioner and came to a conclusion that the petitioner wants to get a license of



Public Distribution Shop in Gram Panchayat Goh whereas there is no vacancy in the said Panchayat. For this reason, the Licensing Authority has rejected the application of the petitioner.

Learned counsel for the petitioner submits that the delay on the part of the authorities in taking a decision has virtually sealed the fate of the petitioner, whereas learned counsel for the State submits that the learned writ court had while passing the order dated 01.03.2011 directed the respondents to consider the case of the petitioner in accordance with law. It is submitted that the petitioner has failed to come out with a plea that there is any vacancy in the Gram Panchayat Goh, and if it is not the case of the petitioner that despite there being a vacancy his case has not been considered positively, no illegality or infirmity may be found with the impugned order.

At this stage, learned counsel for the petitioner has tried to impress upon this court by taking a plea that if the respondents have filled upon any vacancy in the said Panchayat during the period 2011, and before the date of passing of the impugned order, that would be in contravention of the decision of the learned Writ Court. This court is unable to consider the submission being raised at this stage because there is no such



pleading in the Writ Application.

This Writ Application has thus no merit. It is
dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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