

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19445 of 2018

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Sudha Kumari @ Sudha Devi Wife of Om Prakash Yadav, Resident of Village- Bherwa, P.O.- Bhawanipur Uttar, Ward No.12, P.S.- Pratapganj, District- Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
3. The District Magistrate, Supaul.
4. The Additional Collector, Supaul.
5. The District Supply Officer, Supaul.
6. The Sub-Divisional Officer, Birpur, Supaul.
7. Kalpna Kumari, Wife of Ajay Kumar, Resident of Village- Duaniya, P.O.- Bhawanipur Uttar, P.S.- Pratapganj, District- Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prashant Sinha
For the Respondent/s : Mr.S.Raza Ahmad -Aag5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 10-04-2019 Heard learned counsel for the parties.

Petitioner in the present case is aggrieved by the decision taken in the meeting dated 18.08.2018 under the Chairmanship of the then District Magistrate, Supaul as contained in Annexure '9' to the writ application whereby the objection raised against the selection of this petitioner for grant of licence to run the Fair Price Shop was considered and by taking into consideration the recommendation of the screening committee a decision was taken to take action for cancellation



of licence granted to the petitioner. It is this decision as contained in Annexure '9' which is under challenge in the present writ application.

The brief facts of the case are not much in dispute. Pursuant to the advertisement as contained in Annexure '2' to the writ application, the petitioner submitted her application for grant of licence to run the Fair Price Shop. The private respondent no.7 was also one of the applicant. Admittedly, this petitioner being a Graduate is having higher marks compared to the private respondent no.7. In her application as contained in Annexure '3' series, the petitioner had disclosed in response to the information called for in the application that she possess computer knowledge (ADCA). Learned counsel for the petitioner explained that the word 'ADCA' means Advance Diploma in Computer Application. In terms of the advertisement, the candidates having computer knowledge will be given preference. The private respondent no.7 is also possessing computer knowledge and has the same certificate in her hand.

The admitted fact of the case is that the petitioner had not enclosed the copy of the certificate showing her computer knowledge with the application form. In the provisional select



list present at Annexure '4' to the writ application when in front of the name of the petitioner as regards submission of certificate of computer knowledge a remark was given as 'no', by virtue of Annexure '5' whereunder objections were invited against the provisional select list, the petitioner submitted her objection within time i.e. on 31.05.2018.

It is stated in her application submitted to the Sub-Divisional Officer, Birpur that at the time of submission of her application form she could not enclose her certificate of computer knowledge. Permission was sought for to submit the certificate.

It is an admitted position appearing from the counter affidavit filed on behalf of respondent nos.3 to 6 that the request of the petitioner was allowed by the Sub-Divisional Officer, Supaul. A statement to this effect has been categorically made in Paragraph Nos.13 and 22 of the counter affidavit.

Annexure 'A' to the counter affidavit of respondent nos.3 to 6 is the letter of the petitioner submitted to Sub-Divisional Officer, Birpur on which endorsements have been made by the authorities. There are at least three signatures with an endorsement that "कम्प्यूटर प्रमाण पत्र संलग्न करने का निर्णय लिया गया।"

It is in the aforesaid background that learned counsel



submits that the recommendation of the screening committee subsequently saying that the computer knowledge certificate was introduced at a belated stage collusively is unsustainable and has no basis to stand. It is submitted that the official records of the respondents show that the petitioner had submitted her application in time and the same was considered by the Sub-Divisional Officer himself. It is, thus, submitted that there was no reason to accept the objection submitted by the private respondent and to take a decision whereunder the licence of the petitioner to run the Fair Price Shop have been sought to be canceled.

Learned counsel representing the private respondent has submitted that the screening committee had rightly recommended for cancellation of the licence of the petitioner when it was found that the petitioner had not submitted her computer knowledge certificate with the application as contained in Annexure '3' Series. Learned counsel submits that no fault may be found with the order as contained in Annexure '9' to the writ application.

Learned counsel for the State has in course of his argument accepted the factual position as appearing from the counter affidavit saying that the application of the petitioner was



submitted in time and the same was considered by the Sub-Divisional Officer, Birpur who had allowed the submission of the computer knowledge certificate.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that in her application as contained in Annexure '3' Series, the petitioner had clearly declared that she has got computer knowledge and had done Advance Diploma in Computer Application (ADCA). The provisional select list was published showing that she had not submitted her computer knowledge certificate. It is the District Magistrate, Supaul who came out with an order as contained in Annexure '5' to the writ application whereunder objection was invited from the applicants together with the documents related to the objection. The last date for submission of the objection was 31.05.2018. The petitioner had submitted her letter as contained in Annexure 'A' to the counter affidavit of the respondent nos.3 to 6 on 31.05.2018. The Sub-Divisional Officer, Birpur had considered the same and a collective decision was taken by the three signatories to allow the petitioner to submit the certificate. Nothing has been brought to the notice of this Court to show that the Sub-Divisional Officer, Birpur or the persons who were signatories to the decision taken



on Annexure 'A' were not competent to consider the request of the petitioner and take a decision thereon. This Court also finds that the decision to allow the petitioner to place on record the certificate had its genesis in the fact that the petitioner had declared in her application (Annexure '3' Series) that she possess the computer knowledge but could not enclose the certificate with the application. In the opinion of this Court, the fact that she had declared about her computer knowledge in the application at the very first instance would weigh in favour of the petitioner to take a view that the Sub-Divisional Officer, Birpur had by allowing her to place the certificate before preparation of final select list and within time to consider the objection if any, had not committed any error in exercise of his power by virtue of Annexure '5'.

This Court is of the opinion that the recommendation of the screening committee saying that the certificate was introduced in a collusive manner has no basis as things are apparent on the face of the record that the official respondents have produced Annexure 'A' with their counter affidavit only because that is available on their record with the decision taken by the authorities concerned with open eyes. The said aspect of the matter has not been taken into consideration by the



screening committee. For this reason this Court is of the view that Annexure '9' to the writ application cannot be allowed to sustain. It is, therefore, set-aside and the writ application is allowed with all consequential benefits which may accrue to the petitioner by virtue of setting-aside of the impugned order.

(Rajeev Ranjan Prasad, J)

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