

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21593 of 2019

Ruby Kumari, wife of Shri Amod Kumar Sharma, resident of Village-Tola Hirapur, Dumra, Block and P.S.-Kotwa, District-East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administrative Department, Government of Bihar, Patna
2. The Principal Secretary Food and Consumer Protection Department, Government of Bihar, Patna
3. The Additional Secretary Food and Consumer Protection Department, Government of Bihar, Patna
4. The Joint Secretary Food and Consumer Protection Department, Government of Bihar, Patna
5. The Deputy Secretary Food and Consumer Protection Department, Government of Bihar, Patna
6. The District Magistrate East Champaran (Motihari)
7. Munna Kumar Son of Ram Lakshan Sah Resident of Village-Dumra Tola, Hirapur, P.S. Kotwa, District-East Champaran

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shakti Suman Kumar, Advocate
For the Respondent/s : Mr. S. Raza Ahmad (AAG-5)

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 21-01-2020 Heard the learned counsel for the parties.

A counter affidavit has been filed during the
course of argument. Let it be taken on record.

The petitioner is aggrieved by the grant of
license under the Public Distribution Scheme to



respondent No. 7 even though he owns a flour mill, which is a disqualification for the grant of license and that the claim of the petitioner, even though she was placed at the top of the list for consideration, has not been considered only because of certain documents lacking in her application which she later furnished.

It has been submitted on behalf of the petitioner that she is a graduate with good marks and is also older to private respondent No. 7. She also possesses computer literacy. However the claim of the private respondent No. 7 was given precedence over her claim solely on the ground that she had not annexed certain certificates with respect to her domicile/residence and character.

Under such circumstance, it has been submitted that without providing her an opportunity of rectifying that mistake/error which could only be inadvertent, the decision to oust her from consideration cannot be justified.



Apart from this, it has been urged that an opportunity was there before the licensing authority to consider her objection petition with respect to the claim of private respondent No. 7 about his owning a flour mill, which is a positive disqualification for the grant of license under the Bihar Targeted Public Distribution System (Control) Order, 2016.

The petitioner, however under a mistaken advise, challenged the decision of the selection committee before the Commissioner of the concerned division which was rejected. The appeal ought to have been preferred before the District Magistrate, who, incidentally also is the Chairman of the selection committee.

In any view of the matter, since the petitioner had chosen a wrong forum of appeal, this Court deems it necessary and also expedient that the petitioner be given an opportunity of agitating her claim before the appellate authority by challenging the decision to grant



license to private respondent No. 7.

For passing such an order in giving the petitioner an opportunity of preferring an appeal before the correct forum viz. before the District Magistrate of the concerned district, this Court does not require to send any notice to private respondent No. 7.

This Court, therefore directs that in the event of the petitioner preferring an appeal before the District Magistrate/respondent No. 6 within a period of four weeks, the concerned respondent shall entertain the aforesaid appeal and only after hearing the petitioner and the respondent No. 7, pass an order in accordance with law which order shall be communicated to the parties forthwith. Needless to state that the entire exercise by the appellate authority be completed within a period of sixty days of the filing of such appeal by the petitioner along with a copy of this order.



With the aforesaid observation/direction, the
writ petition stands disposed off.

(Ashutosh Kumar, J)

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