

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3277 of 2022

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Kalpna Kumari, aged about 26 years, G-Female, Wife of Shiv Shankar Yadav
Resident of Village Rajmani, Village Panchayat Patania, Block and P.S.
Biraul, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Food and Consumer Protection Department, Bihar,
Patna.
3. The District Magistrate, Darbhanga.
4. The District Supply Officer, Darbhanga.
5. The Sub- Divisional Officer, Biraul, Darbhanga.
6. Jitani Kumari Wife of Rajeev Paswan Resident of Village Narayanpur,
Block and P.S. Biraul, District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Anju Mishra, Adv.
For the State	:	Mr. Arvind Ujjawal, SC4 Mr. Upendra Pratap Singh, AC to SC4
For the Resp. No.6	:	Mr. Jawed Gaffar Khan, Adv. Mr. Arun Kr. Pd., Adv. Mr. Anuj Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 27-04-2022

Heard Ms. Anju Mishra, learned advocate for the
petitioner and Mr. Upendra Pratap Singh for the State.

The petitioner is aggrieved by the order passed by the
District Magistrate in Supply Appeal No. 46 of 2021 dated
07.01.2022 whereby the license granted to her has been cancelled
and the private respondent no.6/Jitani Kumari has been granted the
license to run the PDS shop.



After the petitioner was given the license, private respondent no.6 had challenged the same before this Court vide CWJC No. 1485 of 2019, citing that the grant of license to the petitioner was not in consonance with the rules as paragraph no.5 of the advertisement clearly indicated that the reservation for backward class women would include women of all classes namely backward, extremely backward, SC and ST. The private respondent no.6 was found to have superior merit as she had 60% in Intermediate and she hailed from a scheduled caste community.

A Bench of this Court found that there was no reason why the petitioner should have been granted license to the exclusion of the private respondent no.6 and thus referred the matter to the Collector, Darbhanga to examine all the issues relating to the claim of private respondent no.6 herein. Pursuant to the aforesaid direction passed by this Court in the aforesaid CWJC No. 1485 of 2019 on 29.1.2019, the Collector, Darbhanga took up the matter as in appeal against the grant of license to the petitioner.

After discussing the rules and requirements for grant of license, it was found by the Collector that the private respondent no.6 had a better claim than the petitioner herein. As such, the license of the petitioner was cancelled and the private respondent no.6 was granted the license.



The only ground which has been raised by Ms. Mishra is that the petitioner was selected as a licensee from amongst the merit list which was prepared by a Committee of which the District Magistrate was also a member. Hence, he could not have taken a decision to cancel the license of the petitioner.

We are afraid, this submission is absolutely untenable. The licensing authority is the Sub-Divisional Officer who selects the candidate for grant of license from amongst a list of aspirants prepared by a Committee of which D.M. is a member. However the D.M. has been designated as an appellate authority under the Control Order of 2016.

There is no merit in this writ application. Accordingly, the same is dismissed.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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