

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8230 of 2021

Nawal Kishore Ram Son of Ramjeet Ram, Resident of Village-Asharfisah Tola, Ward No. 10, Turkauliya Paschhimi Pandhayat, P.S.-Turkauliya, District-East Champaran.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, East Champaran-Cum-Chairman, District Selection Committee, East Champaran, Motihari.
3. The SDO Sadar Motihari, East Champaran Cum Member DSC, Motihari.
4. The District Supply Officer, East Champaran-Cum-Member, DSC, East Champaran, Motihari.
5. The Senior Dy. Collector, East Champaran-Cum-Member DSC, East Champaran, Motihari.
6. The District Cooperative Officer, East Champaran-Cum-Member DSC, East Champaran, Motihari.
7. The SDO, Chakia, Areraj, Sikrahana Raxaul, Pakridayal Cum Member, DSC, East Champaran, Motihari.
8. The Block Development Officer, Turkauliya, East Champaran
9. The Block Supply Officer, Turkauliya, District-East Champaran, Motihari
10. Kundan Kumar, Son of Shiv Narayan Ram, Resident of Village-Purwari Tola, Ward No.7, Panchayat Turkaulia Madhya, P.S.-Turkauliya, District-East Champaran, Motihari

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Ranjeet Kumar, Advocate Mr. Yogesh Kumar, Advocate Ms. Rajeeta Singh, Advocate
For the Respondent State:		Mr. S. Raza Ahmad, AAG-5 Mr. Vishwambhar Prasad, A.C. to AAG-5

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 02-03-2022



In compliance of this Court's order dated 16.02.2022, records of C.W.J.C. No. 24943 of 2018, filed by petitioner has been placed before us for perusal, which we have perused.

2. The facts, which are not in dispute in the case in hand, are that an advertisement was issued on 30.11.2017 under the signature of the District Magistrate, East Champaran, Motihari, inviting applications for grant of license to run P.D.S. shop under Bihar Targetted Public Distribution System (Control) Order, 2016, for different panchayats including Gram Panchayat Turkauliya Paschhimmi. The petitioner was an applicant. A selection list was prepared on 27.10.2018 by the concerned District Selection Committee presided over by the District Magistrate. As per the said selection list, respondent No. 10, who was respondent No. 8 in the aforesaid C.W.J.C. No. 24943 of 2018, was selected, his merit position the selection list being second. The petitioner was placed at the third position. Assailing the selection of respondent No.10 mainly on the ground that he was not an inhabitant of the said Gram Panchayat Turkauliya, the petitioner filed the aforesaid writ application before this Court, which gave rise to C.W.J.C. No. 24943 of 2018 and is pending.

3. During the pendency of the said C.W.J.C. No. 24943 of 2018, this writ application has been filed challenging the same



selection process on the same ground that respondent No.10 is not a resident of Turkauliya Panchayat, which is a condition precedent for grant of license to run a P.D.S. shop in the said Gram Panchayat. It has been stated in this application that development subsequent to preparation of the merit list, i.e., finalization of the merit list on 28.11.2018 was not within the knowledge of the petitioner.

4. We may take a pause here to note that the said C.W.J.C. No. 24943 of 2018 was filed on 21.12.2018 after the selection list was finalized on 28.11.2018. This is also not in dispute that P.D.S. License No.87/2018 have been issued in favour of respondent No.10 in September 2019.

5. In the present writ application, the petitioner is seeking the following reliefs: -

i) For setting aside the order contained in Memo No. 122 dated 28.11.2018, issued by District Magistrate-cum-Chairman, District Selection Committee, East Champaran, Motihari to the extent it relates to the Gram Panchayat Raj, Turkauliya Paschhimi, which fall within the jurisdiction of Block Turkauliya and within the jurisdiction of Sub Division Sadar Motihari.

ii) For issuance of direction to the respondent authorities to produce a copy of the PDS license no. 87/2019, issued by the SDM,



Sadar Motihari, in September 2019 in the name of Kundan Kumar, respondent no. 10, in the light of the Memo No. 122 dated 28.11.2018, issued by the District Magistrate cum Chairman District Selection Committee, East Champaran, Motihari and after production thereof same may be quashed.

iii) The petitioner further prays that after setting aside the aforementioned impugned order as well as PDS license no. 87/19, the candidature of the petitioner be considered and the PDS license of Turkauliya Paschhimi Panchayat be issued in the name of the petitioner.

iv) For any other relief for which the petitioner may be deemed entitled to.

6. In paragraph 39 of the writ petition, the following statement has been made: -

“39. That the petitioner in the aforementioned writ application bearing C.W.J.C. No. 24943 of 2018 challenging the minutes of the meeting dated 27.10.2018 but has not challenged the subsequent orders and further he has also not challenged the issuance of PDS license in the name of the private respondents and therefore, petitioner has been advised to withdraw the writ application and therefore, present writ application is being filed. The petitioner undertake to withdraw the writ application bearing C.W.J.C. No. 24943 of 2018, before hearing of this case.”



7. It is disturbing for this Court to note, on perusal of the records of C.W.J.C. No. 24943 of 2018, that the earlier writ application was filed on behalf of the petitioner by three learned Advocates of this Court. This writ application has been filed by a new set of the learned counsel. There is no clue as to what prevented the petitioner from bringing on record the developments, if any, in the earlier writ petition and what compelled him to file a fresh writ application through a new set of counsel in respect of the substantially same cause of action assailing the action of the respondents on the same sole ground.

8. We are of the view that learned counsel, through whom this application has been filed, ought to have been more careful and cautious while accepting the cause of the petitioner during the pendency of earlier writ application, based on the same set of facts. An Advocate under the Advocates Act, 1961, owes a duty not only to the Court but also to the litigant and his colleagues.

9. It is disquietening for this Court to find that despite it being well within the knowledge of learned counsel for the petitioner, who have filed the present writ application, that on the same set of facts, a writ petition was already pending questioning the same selection process by the same party on the same ground,



they advised the petitioner to file the present writ application. We have restrained ourselves from making any further comments, but we deem it fit and proper to issue a note of caution for them to be more careful and cautious in the future.

10. For the aforesaid reasons, this writ application deserves to be dismissed.

11. We have not gone into the question of the correctness of the process of selection, which is under challenge in C.W.J.C. No. 24943 of 2018.

12. This writ application is accordingly dismissed.

13. There shall, however, be no order as to cost.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.03.2022
Transmission Date	N/A

