

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4667 of 2022

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Abhishek Kumar Son of Sri Chando Singh Resident of Safipur, Kurupur, P.O.
and P.S.- Khushrupur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Chairman, District Level Selection Committee, Patna-cum-District Magistrate, Patna.
5. The Additional District Magistrate (Supply)-cum-Secretary, District Level Selection Committee, Patna.
6. The Sub-Divisional Officer, Patna City, Patna.
7. Sujeet Kumar Son of Surendra Paswan Resident of Village- Safipur, Bans Ke Taal Chauraha, P.O. and P.S.- Khushrupur, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pranav Kumar, Adv.
For the State	:	Mr. Upendra Pratap Singh, AC to SC4
For the Resp. No.7	:	Mr. Onkar Nath, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 16-11-2022

Heard Mr. Pranav Kumar, learned Advocate for the
petitioner and Mr. Onkar Nath for the respondent no. 7. The
State is represented by Mr. Upendra Pratap Singh.

The petitioner was initially selected as a licensee on
the basis of his qualification. However later, it was found that
while computing the marks to ascertain as to who has a better



candidature, the petitioner or the respondent no. 7 or any other person, it was found that marks of supplementary papers were also added in the case of the petitioner. The merit list thus was altered, the grant of license to the petitioner was recalled and license was granted to the respondent no. 7.

The learned counsel for the petitioner has submitted that Clause 9(5) does not exclude the marks obtained by a candidate in supplementary examination. All that is required to be seen is that the contender must have basic qualification and computer ability and in case of equal standard of computer ability of various candidates, preference is to be given to higher marks in academics to a candidate. Whether the higher marks would include the marks obtained by a candidate in supplementary paper is a poser, which according to the petitioner has not been especially taken care of in the provision contained in Clause 9(5). The contention of the petitioner therefore is that the merit list ought not to have been altered so casually.

Learned counsel for respondent no. 7, however submits that the marks of supplementary papers are never



added while preparing the merit list and by any calculation respondent no. 7 is more accomplished academically.

In view of the nature of dispute having been raised by the petitioner as also in view of the notification dated 21.07.2022 issued by the Government in exercise of the powers conferred under Sections 3 and 5 of the Essential Commodities Act, 1955 read with Clause-36 of the Bihar Targeted Public Distribution System (Control) Order, 2016, we direct that in the event of the petitioner making a suitable representation/complaint before the concerned Divisional Commissioner within a period of 30 days, the Divisional Commissioner shall look into the matter and after hearing all the stakeholders, including Respondent No. 7, shall pass a final order within a further period of 90 days, giving reasons in support of the decision taken by him.

The order so passed by the authority shall be made available to the petitioner as well as the Respondent No. 7.

It is expected that the Commissioner of the Division shall advert to all the grounds raised by the parties.



With the aforementioned direction/observation, the writ
petition stands disposed of.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.11.2022
Transmission Date	

