

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5878 of 2022

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Dipu Kumar Pandit Son of Dinesh Pandit, Resident of Village-Belghat, Police Station-Ara, District-Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supplies, Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Ara, Bhojpur.
3. The Sub Divisional Officer, Ara, Sadar, Bhojpur.
4. The District Supply Officer, Ara, Bhojpur.
5. Manoj Kumar Pandit Son of Jai Mangal Prasad Resident of Village-Belghat, Police Station-Ara, District-Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Chandra Bhushan Singh, Adv.
For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC4

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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 : 02-11-2022

Heard Mr. Chandra Bhushan Singh, learned counsel for the petitioner and Mr. Upendra Pratap Singh for the State.

The petitioner is aggrieved by the selection of private respondent no.5 as a licensee under the Public Distribution Scheme to the exclusion of the petitioner.

The claim of the petitioner is better than the respondent no.5, in as much as he has better qualification and is older to the respondent no.5 and has computer knowledge. No good reason



could be found by the petitioner for excluding his candidature and giving preference to the private respondent no.5.

Against the aforesaid selection of the District Selection Committee, the petitioner had preferred an appeal before the District Magistrate of Bhojpur at Ara but, the same has yet not been decided.

Considering the aforementioned position 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 are of the view that the dispute could be ably resolved by the concerned Divisional Commissioner in place of the District Magistrate.

The aforementioned notification has been brought about keeping in mind that the District Magistrate, who is appellate authority under the Control Order, 2016, heads the District Selection Committee and, therefore, any appeal before him would be a breach of the basic rule of fairness that no man can be a judge of his own decisions.

The appeal preferred by the petitioner before the District Magistrate stands withdrawn.



The matter is remitted to the Divisional Commissioner.

On a suitable representation/complaint being made by the petitioner before the concerned Divisional Commissioner within a period of 30 days, he shall look into the matter and after hearing all the stakeholders, including the private respondent no.5, 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.5.

We have specifically asked the respondent no.5 to be heard by the Divisional Commissioner as the present order is being passed in his absence.

The writ petition stands disposed of accordingly.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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