

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12342 of 2021

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Suneeta Kumari W/o Birju Chaudhary Resident of Village - Madhopur, P.S.
Bibhutipur, District - Samastipur (Bihar)

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary Second Appellate Authority Food and Consumer Protection Department, Patna.
2. Divisional Commissioner, Darbhanga, Bihar.
3. District Magistrate, Samastipur, District - Samastipur.
4. District Supply Officer Samastipur, District - Samastipur.
5. Sub Divisional Officer, Rosara, District - Samastipur.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha, Advocate
For the Respondent/s : Mr. S. Raja Ahmad (AAG-5)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

2 25-03-2022 This application has been taken up for online hearing through video conference because of COVID-19 pandemic restrictions.

The petitioner has a grievance against her non-selection by the District Selection Committee for grant of a licence to run PDS shop under Bihar Targeted Public Distribution System (Control) Order, 2016 ('Control Order, 2016' for short). She has claimed that there was single vacancy for grant of licence in respect of village Bibhutipur North *Panchayat* in the district of Samastipur. The petitioner had remedy under Rule 32 (iii) read with Rule 32



(vii) of the Control Order, 2016, which read as under :-

“32 (iii) Any person aggrieved by an order of the licensing authority denying the issue or renewal of the license to the fair price shop owner or cancellation of the license may appeal to the District Officer within thirty days of the date of receipt of the order and the District Magistrate shall, as far as practicable, dispose the appeal within a period of sixty days.

* * *

32 (vii) The Principal Secretary/ Secretary of the department may call for the records related to the order passed under the provisions of this Order by the Divisional Commissioner or the District Officer or the licensing authority or the Sub Divisional Officer suo motto or upon a representation by someone, and if he is satisfied that the Divisional Commissioner or the District Officer or the licensing authority or the Sub Divisional Officer

(a) has exercised such powers which are not entrusted to him,

(b) has exercised his powers illegally without considering the facts of the case,

(c) has failed in use of his powers, he may pass an order which he thinks fit.”

Instead of availing the said remedy, the petitioner invoked provisions of the Bihar Right to Public Grievance Redressal Act, 2015 (‘the Act’ for short) by making an application before the Redressal Officer, namely, Sub-Divisional Officer,



Rosera. The Public Grievance Redressal Officer did not find any merit in the petitioner's grievance and accordingly rejected her application by an order dated 19.10.2019. While rejecting the petitioner's application, the Public Grievance Redressal Officer advised the petitioner to make an application before the Competent Authority. The petitioner, however, preferred an appeal before the Divisional-Commissioner which affirmed the order of the Public Grievance Redressal Officer and dismissed the petitioner's appeal by an order dated 30.12.2020 issued vide memo No. 14 dated 03.01.2020. The petitioner thereafter filed second appeal before the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, which has also been dismissed by an order dated 02.09.2020. In the said order dated 02.09.2020, the second appellate authority specifically mentioned that as the dispute related to grant of licence for running PDS shop under control order, 2016 which contains provision for appeal under Rule 32 thereof, the petitioner ought to have invoked the said provision. The said orders dated 19.10.2019, 30.12.2019 and 02.09.2020 are under challenge in the present writ application.

Mr. Bachan Jee Ojha, learned counsel appearing on behalf of the petitioner has submitted that the authorities under the Act have failed to examine the petitioner's claim for grant of the



licence to run PDS shop in respect of village Bibhutipur North *Panchayat* in the district of Samastipur. He further submits that the decision taken by the Selection Committee is in violation of the reservation policy.

In our view, the Second Appellate Authority in its impugned order dated 02.09.2020 has rightly recorded that the matter arose out of a selection process in accordance with the provisions under Control Order, 2016 which contains a provision for appeal.

In such view of the matter, with reference to Section 12 of the Act, the Appellate Authority has rightly mentioned that the petitioner ought to have invoked the remedy of appeal under the Control Order, 2016 and the application filed by her under provisions of the Act was not proper.

We affirm the view taken by the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, in its order dated 02.09.2020 in relation to the dispute arising out of Control Order, 2016, cannot be raised by invoking the provisions of the Bihar Right to Public Grievance Redressal Act, 2015 there being specific provision under the Control Order, 2016 for redressal of various grievances.

We do not find any merit in this application. This



application is accordingly rejected.

It goes without saying that the petitioner shall be at liberty to invoke appellate remedy under the Control Order, 2016 by preferring appeal with an application seeking condonation of delay on the grounds as may be available to her.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

K.K.RAO/-

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