

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10757 of 2020

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Nisar Ahmad, Son of Md. Mokarram, Resident of Village- Bakaniya Toli
Kola Dagrua, Tauli, Police Station- Dagrua, District- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Old Secretariat, Patna.
2. The Secretary, Food and Consumer Protection Department, Old Secretariat, Government of Bihar, Patna.
3. The Divisional Commissioner, Purnia Division, Purnia.
4. The District Selection Committee, Purnia under the Chairmanship of District Magistrate, Purnia.
5. The District Magistrate, Purnia.
6. The Sub-Divisional Officer-Cum-Licensing Authority, Purnia.
7. Md. Mehareban Alam, Son of Md. Mobarak Alam, Resident of Village- Hatgachi Panchayat Bakaniya Braily, Police Station- Amour, District- Purnia.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Adv. Mr. Sanjeet Kumar, Adv. Mr. Ujjawal Bhushan, Adv.
For the Respondent No.7	:	Mr. Dhananjaya Kumar, Adv. Mr. Bipin Kumar, Adv.
For the State	:	Mr. Upendra Pratap Singh, A.C. to S.C.-4

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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 : 24-11-2022

Heard Mr. N.K. Agrawal, the learned Senior Advocate for the petitioner and Mr. Dhananjay Kumar, the learned Advocate for the private respondent No. 7.

2. The State is represented by Mr. Upendra Pratap Singh, the learned A.C. to S.C.-4.

3. The petitioner was a licensee but on the complaint of private respondent No. 7, the matter was revisited and by the order of the Commissioner of the Division, the license of the petitioner was cancelled and it was given to private respondent No. 7.

4. Mr. N.K. Agrawal, the learned Senior Advocate has demonstrated from the order that the learned Commissioner, even after noticing that column Nos. 3 to 12 of the form of private respondent No. 7 was not fully filled-up, cancelled the license of the petitioner on the complaint of private respondent No. 7.

5. Mr. Dhananjaya Kumar, the learned



Advocate for the private respondent No. 7 however has submitted that his form actually was complete which fact was in know of the authorities before passing the order. The private respondent No. 7 had sought information under the R.T.I. mechanism, whether he had filled-up column Nos. 3 to 12 of the form for which a positive report was sent and, therefore, he was rightly granted license as he was the most suitable candidate under the circumstance.

6. The learned counsel for the petitioner however submits that if the Commissioner was of the view that the application form of private respondent No. 7 was complete in all respects, he ought to have also stated that such fact was confirmed only later when private respondent No. 7 sought further information.

7. That not having been done and there being no material to support the contention of private respondent No. 7, the order passed by the Commissioner does not appear to be appropriate.



8. We find that the Secretary of the Department also has endorsed the decision of the Commissioner and has directed for grant of license to private respondent No. 7 instead.

9. Both the orders, referred to above, suffer from the vice of being unintelligible for we are not able to assess the materials on which the authorities have relied upon in finding that the private respondent No. 7 was the most suitable candidate.

10. For the reasons afore-stated, we set-aside the orders passed by the Commissioner, Purnia Division, Purnia and the Secretary, Food & Consumer Protection Department, Patna respectively and remit it to the learned Commissioner for writing out a fresh order in accordance with law, giving reasons in support of the same, within a period of 60 days, to be counted from the date of receipt/production of a copy of this order.

11. It would be more appropriate if the learned Commissioner hears out both the parties and



other stakeholders before passing the order.

12. In the meantime the *status quo* shall be maintained.

13. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

Praveen-
II/Anuradha

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30/11/2022
Transmission Date	N/A

