

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22495 of 2018

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Kusumlata Kumari @ Kusumlata Devi Wife of Santosh Kumar Sah Resident
of Village P.O.- Amari Kukraun, P.S. Dhamdaha, District- Purnia.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Purnea.
3. The Sub-Divisional Officer, Dhamdaha, Purnea.
4. The District Supply Officer, Purnea.
5. The Selection Committee for grant of New License under Public
Distribution System Control Order,
6. The Child Development Project Officer, Dhamdaha, Purnea.
7. Rekha Devi W/o Sanjay Kumar Gupta Resident of Village P.O. Amari
Kukraun, P.S.- Dhamdaha, District- Purnia.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar
For the Respondent/s : Mr. Arvind Ujjwal- Sc4

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

Date : 12-10-2022

1. Heard Mr. Raghubir Chandrayan, learned Advocate
for the petitioner; Mr. Mani Bhushan Kumar, for Respondent No.
7; and Mr. Upendra Pratap Singh, for the State.

2. The petitioner is aggrieved by the selection of the
Private Respondent No. 7 as the most suitable candidate for
being granted licence under the PDS Scheme. It is the case of



the petitioner that she has been kept out of the zone of consideration for the reason that she was earlier made Anganwadi Sevika and was accorded training for the same.

3. The learned counsel for the petitioner submits that the post of Aanganwari Sevika is not a Government post and therefore the disqualification as enumerated in Rule 11 of the Bihar Targeted Public Distribution System (Control) Order, 2016 will not attach to the case of the petitioner. He further submits that till date, the appointment of the petitioner as Anganwadi Sevika is only on the paper as she has not been paid even a farthing.

4. Mr. Mani Bhushan Kumar, learned Advocate for the Private Respondent No. 7, on the other hand, has submitted that whether the petitioner has been paid for the services rendered by her is not the consideration for deciding as to who would be most suitable person for being granted licence. He further submits that whatever paltry emolument may be afforded to Anganwadi Sevika, once a person continues on such post, he/she becomes disqualified for being considered for grant of licence.



5. Rule 11 of the Bihar Targeted Public Distribution System (Control) Order, 2016 specifies that no fair price shop shall be granted to Mukhiya, Sarpanch, Panch, a Ward Member, a Member of the Panchayat Samiti, a Member of the District Board, An M.L.A., a Member of the Legislative Council, a Member of the Parliament and an elected member of the Municipal Bodies notwithstanding their eligibility on any other count.

6. The other class of persons who are disqualified for being considered for grant of a licence are owners of flour mills. Even in the cases of the relatives of the contenders owning Flour mills, such disqualification attaches to such contender. No minor or a lunatic or an insolvent person or a person convicted by the Court for Breach of any provision of Essential Commodities Act, 1955 or any criminal case, would be considered for grant of licence. Any person holding a post of profit in the Government shall not be allotted a fair price shop.

7. On a plain consideration of Rule 11, the petitioner comes in Category (vi) of Rule 11. If the petitioner has not been paid her emoluments as an Anganwadi Sevika, it is for her



to take necessary steps for a direction to the Authorities to make payment of her salary.

8. However, that fact cannot remove the disqualification attached to her.

9. Under the aforesaid circumstances, we do not consider it to be a fit case to be entertained for referring it to the Divisional Commissioner for a final determination.

10. The petitioner has not made out any case.

11. The petition is dismissed accordingly.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Skm/ashishkr/-

AFR/NAFR	NAFR
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