

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20480 of 2021

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Makeshwar Yadav, son of Late Dwarika Yadav, resident of village and P.O.-
Madhuban, Police Station-Kusheshwar Asthan, District-Darbhanga.

.. ... Petitioner/s

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Food and Civil Supply, Darbhanga.
3. The District Magistrate, Darbhanga.
4. The District Supply Officer, Darbhanga.
5. The Sub-Divisional Officer, Biraul, District-Darbhanga.
6. The Block Marketing Officer, Kusheshwar Asthan, District-Darbhanga.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjit Kumar Yadav, Advocate

For the Respondent/s : Mr.S. Raza Ahmad (AAG-5)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

**(The proceedings of the Court are being conducted by
Hon'ble the Chief Justice/ Hon'ble Judges through Video
Conferencing from their residential offices/residences. Also,
the Advocates and the Staffs joined the proceedings
through Video Conferencing from their residences/offices.)**

Date : 08-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s).

“1.That this is an application for issuance of a writ in the nature of certiorari to quash the order dated 05.02.2019 passed in P.D.S. Revision Case No. 03/2014 by the Divisional Commissioner, Darbhanga (Respondent no.2) by which the revision has been dismissed, the order dated 09.01.2014 of the District Magistrate, Darbhanga passed in P.D.S. Appeal no. 25/2013 by which the appeal was dismissed and also the order of the Sub-Divisional Officer, Biraul as contained in memo no. 1791 dated 04.11.2011 by which the P.D.S. license no. 30/85 of the petitioner has been cancelled and further for issuance of a writ in the nature

of Mandamus and/or any other appropriate writ, order or direction commanding upon the respondents to restore the P.D.S. License no. 30/85 of the petitioner.”

Briefly stated, the facts of the case is that on complaint made by the beneficiaries against PDS shop of petitioner, same was inquired by the Block Development Officer, Kusheshwar Asthan, Darbhanga and in enquiry report dated 29.04.2011 it was alleged that petitioner apart from being PDS dealer is also working as Extra Departmental Branch Post Master and there were other allegations of irregularities against the petitioner and for which show cause was issued to petitioner by the SDO-cum-Licensing Authority, Biraul and in reply, he submitted that he is PDS dealer on commission basis and holding the post of Post Master on monthly salary and he can continue with both simultaneously.

The Licensing Authority-cum-SDO, Biraul held that in view of clause 2.6 (Cha) of Public Distribution System (Control) Order 2001 as well as Circular dated 15.02.2007 issued by the Food Civil Supplies and Commerce Department, Government of Bihar, a person holding the post of profit under government cannot be a PDS dealer and accordingly, cancelled the licence of petitioner by order dated 04.11.2011. Appeal being Appeal no. 25/2013 preferred by the petitioner before the

Collector, Darbhanga was dismissed on 09.01.2014 and thereafter Revision preferred by the petitioner being PDS Revision Case No. 3/2014 was dismissed by the Divisional Commissioner, Darbhanga by order dated 05.02.2019.

In view of clause 2.6 (Cha) of Public Distribution System (Control) Order 2001, as well as Circular dated 15.02.2007 issued by the Food Civil Supplies and Commerce Department, Government of Bihar, a person holding post of profit under State Government or Central Government is not eligible to be appointed as a PDS dealer and petitioner being employed as a Extra Departmental Post Master under Gramin Dak Seva, Department of Post, Government of India which is a civil post and as such, was not eligible to be appointed as a PDS dealer.

There is no merit in this writ petition and is accordingly, dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	