

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.895 of 2020

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Bijendra Kumar Mandal, aged about 49 years, male, Son of Balbir Mandal,
Resident of Village- Arajpur Ward No. 11, Panchayat- Arajpur West, P.S.
Chausa, District- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Civil Supply,
Government of Bihar, Patna.
2. Collector Cum District Magistrate, Madhepura.
3. The Sub Divisional Officer, Udakisunganj, District - Madhepura.
4. District Supply Officer, Madhepura.
5. Block Supply Officer, Udakisunganj, District - Madhepura.
6. Chitranjan Kumar, Son of Nityanand Mandal, Resident of Village - Arajpur,
P.S. - Chausa, District - Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	: Mr. N.K. Agrawal, Sr. Advocate Mr. Dinesh Prasad Verma, Adv.
For the State	: Mr. Alok Ranjan, A.C. to A.A.G.-5
For the Respondent No.6	: Mr. Aditya Prakash Sahay, Adv.

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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 : 28-06-2022

Heard Mr. N.K. Agrawal, the learned Senior



Advocate for the petitioner and Mr. Aditya Prakash Sahay, the learned Advocate for the respondent No. 6. The State is represented by Mr. Alok Ranjan, learned A.C. to A.A.G.-5.

2. On the complaint made by private respondent No. 6 about the petitioner having obtained P.D.S. license on forged and fabricated academic qualification certificate, an enquiry was conducted in which it was found that two different marks-sheets were given by the petitioner for obtaining the license. As such, it was presumed by the licensing authority that the license has been obtained on a spurious document. Consequently, the license of the petitioner was cancelled.

3. Mr. N.K. Agrawal, the learned Senior Advocate for the petitioner has submitted that there could be no gainsaying that two different marks-sheets were offered by the petitioner, one at the time of making application for grant of license and the other, at the time of consideration of his candidature and both the marks-sheets are genuine documents. He further submits that



one marks-sheet is the total of the marks obtained by him in pass course subjects, whereas the other is the marks-sheet for the subjects in honours. It has further been submitted that without getting the matter verified from the University, it was absolutely unjustified for the licensing authority to have declared the documents furnished by the petitioner to be forged and fabricated.

4. There is substance in the submissions made on behalf of the petitioner.

5. The licensing authority ought to have taken care to find out from the University concerned about the genuineness of the documents furnished by the petitioner at any stage before declaring it to be forged and fabricated document. It is no body's authority to defame any person on a half baked enquiry.

6. On this score alone, we are not in a position to sustain the order passed by the licensing authority and we set it aside.

7. Mr. Aditya Prakash Sahay, the learned Advocate for respondent No. 6 makes a preliminary



objection about the maintainability of this case on the ground that the petitioner has not exhausted the alternative remedy of an appeal which is provided under Clause 32(III) of the Bihar Targeted Public Distribution System (Control) Order, 2016.

8. In response to the aforesaid preliminary objection, Mr. N.K. Agrawal, the learned Senior Advocate has submitted that the order impugned in the present petition is absolutely *non est* as the marks-sheets of the petitioner have been declared to be forged and fabricated without proper enquiry.

9. The order cancelling the license of the petitioner is thus set-aside.

10. The matter is relegated to the licensing authority to pass a fresh order in accordance with law, after verifying the genuineness of the marks-sheets offered by the petitioner at two different stages and affording a sufficiently reasonable opportunity to the petitioner to explain his cause. In case it is found that any one of the marks-sheets furnished by the petitioner



was not genuine or not issued by the University, necessary order shall be passed by the licensing authority. In any event, the licensing authority shall after the enquiry pass a final order in the matter.

11. We also make it clear that we are not restoring the license of the petitioner in the interregnum.

12. The licensing authority shall conclude the proceeding and pass a reasoned order within a period of 90 days, to be counted from the date of receipt/production of a copy of this order.

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

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	05.07.2022
Transmission Date	N/A

