

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.286 of 2021

In
Civil Writ Jurisdiction Case No.20403 of 2019

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Sunita Kumari, Wife of Surendra Kumar, Resident of Village- Kadarapur @ Kadirpur (Biraj), P.O. and P.S.- Suhail (Kothi), District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Bihar State Food and Civil Supplies Department, Government of Bihar, Patna.
2. The District Officer-cum-District Magistrate, Gaya.
3. The District Supply Officer, Gaya.
4. The Sub Divisional Officer, Sherghati, Gaya.
5. The Circle Officer, Imamganj, Gaya.
6. The Block Development Officer, Imamganj, Gaya.
7. The Block Supply Officer, Imamganj, Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Birendra Kumar Singh, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, A.G.
		Mr. Alok Ranjan, A.C. to AAG-5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-05-2023

The appellant was an applicant for P.D.S. licence and it is the contention of the appellant that she stood at Serial No. 1 on merit for consideration for grant of such licence. However, she was declined the same since she was a Panchayat Teacher at the time of the application.

The appellant's contention is that though she was a Panchayat Teacher at the time of application i.e. on 12.10.2017,



she tendered resignation on 01.08.2018, which was accepted on 02.08.2018. The resignation was also confirmed by the Block Education Officer, Imanganj, Gaya to the Block Supply Office, Imanganj, Gaya on 22.02.2019. Despite her resignation, she was not considered for Position No. 1. The learned counsel for the appellant also places reliance on **(2015) 14 SCC 469, Neelam Tripathi v. Union of India and Ors.** to buttress the contention that merit cannot be overlooked.

The learned Single Judge found that as on the date of inviting applications, she was a Panchayat Teacher and was disentitled for consideration for grant of P.D.S. licence. The Hon'ble Supreme Court in the cited case was concerned with the second meritorious candidate approaching the Indian Oil Corporation Ltd. for grant of dealership, when the grant to the first placed person was found to be illegal. The Indian Oil Corporation Ltd. declined such consideration. The Hon'ble Supreme Court held that after cancellation of the allotment made in favour of the first in merit-list, the Corporation ought to have accepted the second in merit-list. This is not to say that a disqualified person should be considered, if her merit is above all the other candidates. Disqualification works against the consideration of the application itself and in such circumstances,



we find no merit in the Letters Patent Appeal and the same is dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

P.K.P./Anushka

AFR/NAFR	
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