

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17612 of 2022

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Rekha Kumari Daughter of Avdesh Ray, Resident of Village-Khrika Pakhnaha, P.S.-Minapur, District-Muzaffarpur, presently wife of Rajesh Kumar, Village-Bajnariya, P.S. Motipur, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The District Supply Officer, Muzaffarpur.
4. The S.D.O. (West), Muzaffarpur.
5. Jaya Anjum, Wife of Md. Samim Alam, Resident of Village-Malikana Bagahi, P.S.-Motipur, District-Muzaffarpur, State-Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nachiketa Jha, Advocate

For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC 4

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

2 23-01-2023 Heard Mr. Nachiketa Jha, the learned Advocate for

the petitioner and Mr. Upendra Pratap Singh for the State.

Mr. Jha submits that even though the petitioner was ranked higher to Respondent no. 5 in the provisional merit-list, Respondent no. 5 was given the license.

Mr. Jha has further pointed out that against the candidature of persons ranked at Sr. No. 1 and 2, the petitioner had furnished proof of disqualification attached to them. In the event of those two persons not being



considered for grant of license, the petitioner remains the only choice before the District Selection Committee.

However, the choice fell on Respondent no. 5, who was at Sr. No. 9 in the merit list. We do not exactly know whether any disqualification was found to be attached with the case of the petitioner or the circumstance under which the claim of the petitioner was by-passed and Respondent no. 9 was chosen as the licensee.

In any view of the matter, regard being had to the nature of controversy raised by the petitioner we are inclined to relegate the issue to the Divisional Commissioner for the reason of the notification dated 21.07.2022 issued by the Government in exercise of the powers conferred under Sections 3 and 5 of the Essential Commodities Act, 1955 read with Clause-36 of the Bihar Targeted Public Distribution System (Control) Order, 2016.

We direct that in the event of the petitioner making a suitable representation/complaint before the concerned Divisional Commissioner within a period of thirty days, the Divisional Commissioner shall look into the matter and after



hearing all the stakeholders, including Respondent No. 5, shall pass a final order within a further period of ninety days, giving reasons in support of the decision taken by him.

The order so passed by the authority shall be made available to the petitioner as well as the Respondent No. 5.

We have specifically asked for Respondent No. 5 to be heard by the Divisional Commissioner as the present order is being passed in his absence.

The writ petition stands disposed of accordingly.

(Ashutosh Kumar, J)

(Satyavrat Verma, J)

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