

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.755 of 2020

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Sonu Kumar Ray Son of Late Damodar Ray Resident of Village and P.O.-
Kusoundhi, P.S.- Mirganj, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The Collector-cum- District Magistrate, Gopalganj.
4. The District Supply Officer, Gopalganj.
5. The Sub- Divisional Officer, Sub- Division- Hathua, District- Gopalganj.
6. The Block Supply Officer, Block- Hathua, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Pandey No.5
For the Respondent/s : Mr.Arvind Ujjwal (Sc4)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

4 15-12-2023 Heard learned counsel for the parties.

2. The present Writ Petition has been filled for the following reliefs:-

“A. For quashing the Memo No. 502 dated 05.08.2019 (Annexure-13); so far as the present Petitioner is concern.

B. And further for to a direction to the Respondent Authorities to select and appoint the present Petitioner; as a PDS dealer, on compassionate basis and allot the License No. 91/07 to the Petitioner in Gram Panchayat Raj Kusoundhi; on amongst others the following grounds:-

(i) For that the rejection of the candidature of the Petitioner is totally misconceived and the same is not based upon the factual aspect of the matter, particularly detailed in Letter dated 15.05.2019 (Page -41) and the Letter dated



25.05.2019 (Page-43).

(ii) For that the Petitioner has submitted the certificate of the required qualification of Matriculation, well before the final consideration of the matter, which was done on 27.07.2019.

(iii) For that, the Authorities has failed to appreciate that at the time, when the Petitioner applied for the grant of PDS license there was no compulsion with regard to the educational qualification as Matriculation for the compassionate appointment.

(iv) For that, during the scrutiny of the application also, no objection with regard to the educational qualification of the matter was raised; which is evident from the Letter No. 287 dated 23.03.2017 (Annexure-3) of this Writ application.

(v) For that the authorities have failed to appreciate that the Petitioner has cleared the Matriculation examination, sensing the requirement and has submitted it to the authority on 15.05.2018 and even after that in the final consideration dated 27.07.2019 the candidature of the Petitioner has been rejected on the grounds of the educational qualification.

(vi) For that due to the illegal and arbitrary decision of the Respondent Authorities the Petitioner has suffered from an irreparable injury.

(vii) For that due to the illegal and arbitrary decision of the Respondent Authorities, the Fundamental Rights of the Petitioner, as enshrined in the Constitution of India, has been violated.”

3. Learned counsel appearing on behalf of the petitioner has stated that though the petitioner had a requisite qualifications as on the date of consideration of his application, the authority concerned did not consider the same and rejected the application made by the petitioner for appointment as PDS dealer on compassionate appointment. Learned counsel has stated that the father of the petitioner has died in the year 2016.



and thereafter the petitioner has applied for the PDS dealer under the compassionate appointment in the year 2016 itself. That the petitioner acquired the qualification of matriculation on 14.06.2017 and made a representation to the authorities on 15.05.2018. The authorities had vide order dated 27.07.2019 rejected the application of the petitioner on the ground that the petitioner did not have the requisite qualification. That the act of the respondents in rejecting the application made by the petitioner is contrary to the record and also the provisions of the Act. Therefore, prayed this Court to set aside the impugned order and pass necessary orders.

4. Per contra the learned counsel appearing on behalf of the respondent has stated that the petitioner did not have the requisite qualification as on the date of making the application for appointment as PDS dealer. Therefore, the authorities have rightly rejected the application made by the petitioner. Learned counsel has, therefore, prayed for dismissal of the present writ petition.

5. A perusal of the impugned orders shows that the authority has passed the said order on 27.07.2019, the amendment to the Bihar Targeted Public Distribution System (Control) order was made in the year 2016 in which Rule 10



read along with Rule 9(v) makes it mandatory for the applicant to be a matriculation pass.

6. Admittedly, in the present case the petitioner has already graduated and is a matriculation pass as on 14.06.2017 and to that effect he had given representation to the authorities concerned on 15.05.2018. As on the date of passing of the order by the concerned authority, the petitioner was having the requisite qualification and the said fact was also known to the respondents. Therefore, the rejection of the application made by the petitioner on the ground that the petitioner did not have the requisite qualification is contrary to the record. The authority has considered the application of the petitioner for appointment as a PDS dealer on compassionate ground on 27.07.2019 by which date the petitioner was having the necessary qualification. The authority ought to have taken a pragmatic and humane approach while deciding the application of this nature as the family is already suffering due to the death of the family members and breadwinner.

7. Having regard to the above, the impugned order is set aside and the matter remanded back to the District Selection Committee for passing orders afresh duly taking into consideration the fact that the petitioner is having the requisite



qualification for been appointed as a PDS dealer under the
compassionate ground as on the date of deciding the application.

8. The entire exercise shall be completed as
expeditiously as possible preferably within a period of twelve
weeks from the date of receipt of the copy of this order. Any
order passed shall be communicated to the party.

9. With the above observation, the present Writ
Petition stands disposed off to the extent indicated above.

(A. Abhishek Reddy , J)

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