

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18894 of 2018

Neelam Kumari W/o Dayanand Prasad Resident of Niyamatnagar, P.O. Dharhara, P.S. Silao, District- Nalanda ... Petitioner

Versus

1. The State Of Bihar
2. The Chairman, District Level Selection Committee, District- Nalanda.
3. The Collector-Cum-District Magistrate, Nalanda.
4. The District Supply Officer, Nalanda.
5. The Sub Divisional Officer, Rajgir , Nalanda.
6. The Block Supply Officer, Rajgir, Nalanda.
7. Pravin Kumar S/o Kishori Prasad Resident of Niyamatnagar, P.O. Dharhara, P.S. Silao, District- Nalanda. ... Respondents

Appearance :

For the Petitioner	:	Mr.Dhananjaya Nath Tiwari, Adv.
For the State	:	Mr.Upendra Pratap Singh, AC to SC VII
For Respondent 2	:	Mr. Bhupendra Kumar Verma, Adv.

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

6 04-09-2023 Heard learned counsel for the parties.

2. The present Writ Petition is filed for the following

relief(s) :

“..... for quashing the selection of respondent no. 7 as PDS dealer for Sabait Panchayat under Backward Class of Rajgir Sub Division whose name stands at sl. No. 46 of the selection committee list issued vide letter no. 914 dated 11.08.2018 by District Supply Officer, Nalanda and further be pleased to direct the authorities to appoint the petitioner as PDS dealer in Sibait Panchayat under Backward Class in the Sub Division of Rajgir because the petitioner is having more marks than respondent no. 7 and candidature of petitioner has been rejected only on the ground that she is not Matriculate in terms of Clause-9(v) of the Control Order, 2016 whereas the petitioner has passed Madhyama from Bihar Sanskrit Shiksha Board and Madhyama is equivalent to Matriculation in view of judgement passed in LPA No. 1500 of 2012 (Sita



Kumari Versus the State of Bihar & Ors.) disposed of on 27.11.2015.”

3. Learned counsel for the petitioner has stated that the petitioner has applied for appointment as a PDS dealer in the Subdivision of Rajgir including Sabail Panchayat pursuant to the advertisement given by the authorities. Learned counsel has stated that the petitioner along with six others has applied for the said dealership and having got the highest marks, i.e., 69.80%, the petitioner was hopeful that she would be selected for the dealership. However, the authorities have rejected the candidature of the petitioner on the sole ground that the petitioner has not passed matriculation and selected the Respondent No. 7 herein who had secured only 61%. Counsel has stated that the petitioner has passed Madhyama from Bihar Sanskrit Shiksha Board in the year 2000 itself and, thereafter, she has passed Intermediate and completed her B.A. from Magadh University in the year 2014 and then M.A. in the Modern History. The petitioner also possesses Advance Diploma Course in Computer Application and, therefore, the petitioner's disqualification on the ground that she has not passed matriculation is without any legal basis.

4. Learned counsel has stated that a Division Bench of



this Hon'ble Court in L.P.A. No. 1500 of 2012 based on the counter affidavit filed by the authorities has held that Madhyama from Bihar Sanskrit Shiksha Board is equivalent to matriculation, therefore, learned counsel for the petitioner has prayed this Hon'ble Court to allow the present Writ Petition.

5. A counter affidavit has been filed by the authorities stating that as per the order passed by the Division Bench in L.P.A. No. 1500 of 2012, dated 27.11.2015, the controversy with regard to the qualification of Madhyama has been resolved and this Hon'ble Court has held that the Madhyama from Bihar Sanskrit Shiksha Board is equivalent to the matriculation. It is further stated that the petitioner is having more marks than the Respondent No. 7 and, therefore, the rejection of the application of the petitioner on the ground that she has not passed matriculation is without any legal basis. In the counter affidavit filed by the Respondent No. 7 the above facts have not been disputed, however, the Respondent No. 7 has stated that after the rejection of the application of the petitioner, the Respondent No. 7 was granted the PDS license and that she is running the PDS shop.

6. Admittedly, as seen from the record as well as the counter affidavit filed by the official respondents, the petitioner



is having higher marks than the Respondent No. 7. The only reason for rejection of her application is that she has not passed matriculation.

7. The question as to whether the Madhyama from the Bihar Sanskrit Shiksha Board is equivalent to matriculation or not has already been decided by a Division Bench of this Hon'ble Court in the above mentioned LPA. The Division Bench duly taking into consideration the counter affidavit filed by the Director, Secondary Education, Bihar, Patna, has held as under :

“A counter affidavit now has been filed and paragraph 10 and 11 of which reads as such:

“10. That in this context it would be relevant to state here that Education Department Govt. of Bihar took a policy decision dated 11.01.1999 contained in Memo No. 36 by which the degree of Madhyama obtained from Bihar Sanskrit Siksha Board has been treated to be equivalent to Matriculation.

11. That this fact is also finds confirmed from the letter no. 5218 dated 02.08.2013 sent by the Secretary of the Bihar Sanskrit Siksha Board, Patna addressed to the Special Director, Secondary Education, Bihar, Patna.”

In view of the specific stand taken by the State itself and that too by the Director, Secondary Education, Government of Bihar, that Madhyama granted from Bihar Sanskrit Sikhsha Board, which again is a governmental body, is equivalent to matriculation, the controversy is put to rest.”



8. Having regard to the above facts and circumstances, the rejection of the application of the petitioner for PDS license on the ground that the petitioner does not have passed matriculation has to be necessarily set aside. The matter is remitted back to the Respondent No. 2 and 3, the Chairman, District Level Selection Committee, District Nalanda, and also the Collector-cum-District Magistrate, Nalanda, to re-consider the application of the petitioner afresh and pass orders in accordance with law, duly taking into account the judgment of this Hon'ble Court in L.P.A. No. 1500 of 2012.

9. It is needless to mention that before passing any orders, the parties shall be put on notice and given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of two months from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.

10. With the above directions, this writ petition is **allowed** to the extent indicated.

(A. Abhishek Reddy , J)

Shamshad/-

U			
---	--	--	--

