

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3017 of 2024

Rakesh Das Son of Bachchan Das, resident of Village and P.O. Sawangia,
Ward No. 1, P.S.-Madhuban, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate, East Champaran at Motihari.
4. The Sub Divisional Officer, Pakaridayal, East Champaran at Motihari.
5. Parmesh Ram, son of Nageshwar Ram, resident of Village and P.O. Sawangiya, Ward No. 1, P.S.-Chakiya, District-East Champaran at Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Sinha, Adv.
	:	Mr. Vijay Anand, Adv.
For Respondent No. 5	:	Mr. Sunil Kumar No. III
	:	Mr. Raki Alam, Adv.
For the Respondent/s	:	Mr. Sunil Kumar Mandal, Standing Counsel 3
	:	Mr. Arjun Prasad, AC to SC3

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

9 09-12-2024 Heard the learned counsel for the parties.

The present writ petition has been filed for the
following reliefs:-

“(a) For issuance of an appropriate writ or writs, order or orders, direction or directions particularly in the nature of writ of Certiorari for quashing of the order dated 08.08.2023 passed by Divisional Commissioner, Tirhut Division, Muzaffarpur in PDS Appeal No. 225/2022.

(b) Further for quashing of the order dated 09.05.2019 passed by the Sub. Divisional Officer, Pakaridayal, District : East Chaparan in Vividh Aapurti Abhilesh Sankhya- 37/2019 granted the P.D.S. License in favour of respondent no. 5 ignoring the merit list in which petitioner’s name placed at serial no. 1 and respondent no. 5 is at serial no. 2.

(c) Any other relief/ reliefs to which the petitioner is found entitled to.”



3. Learned counsel appearing on behalf of the petitioner has vehemently argued that though the petitioner was having more marks in the Intermediate and having the requisite qualifications, the authorities have selected the respondent No. 5 who admittedly has less marks than the petitioner in the Intermediate. Learned counsel has further stated that the authorities without verifying the factual aspect and also ignoring the earlier order passed by the District Selection Committee (Annexure-P/10 series) have passed the order selecting the respondent No. 5. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition by setting aside the impugned order.

4. *Per contra*, the learned counsel appearing on behalf of the respondent-State as well as the respondent No. 5 have vehemently opposed the very maintainability of the present writ petition and stated that the selection of the respondent No. 5 is strictly in accordance with the provisions of the Control Order, 2016 and, therefore, there is no necessity for any interference by this Hon'ble Court. Learned counsel has stated that the contention of the petitioner that the marks of the candidates should be looked into for the purpose of selection is not correct and there is nothing in the Control Order, 2016 which states that



in case both applicants have equal qualification then the marks should be looked into. Learned counsel have therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. In order to appreciate the issue involved in the present case, it is necessary to extract the relevant provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016, more specifically, Rule 9(v) which reads as under;

“The applicant of a fair price shop's license must be matric pass and an adult;

Provided that the applicant having computer knowledge shall be given priority. In case of equality in computer knowledge, the applicant having highest qualification and in case of equality in highest qualification also the applicant of older age shall be given priority.”

6. A perusal of the above Rule clearly demonstrates that the minimum qualification for being eligible to be appointed as a PDS dealer is that the person should be a matric pass and preferably have computer knowledge. That in case the persons are having equal qualification then the person who is having the higher qualification should be preferred and in case there is tie in the educational qualification, then the person who is older should be appointed. Rule 9(v) does not in any manner contemplate looking at the percentage of marks if the qualification is same between two candidates or more, therefore, the contention of the petitioner that the petitioner is having more



marks in Intermediate does not hold any water and the same is rejected. Accordingly, the present writ petition stands dismissed however, without any costs.

Ayush/-

(A. Abhishek Reddy, J)

U			
---	--	--	--

