

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4506 of 2024

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Upendra Kumar S/o Gudari Ram, R/o Village-Varuna, P.O.-Basudhar, P.S. Itarhi, Dist-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Magistrate, Buxar, District Buxar.
4. District Supply Officer, Buxar, District Buxar.
5. Sub Divisional Officer, Buxar.
6. Block Development Officer Itarhi Block 2 Buxar, District Buxar.
7. Block Supply Officer, Itarhi, District Buxar.
8. Vijay Kumar, son of Dinnanath Ram, R/o Village-Varuna Khurd, P.O.-Basudhar, P.S. Itarhi, District-Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dwivedy Surendra, Adv.
For the Respondent No. 8:	:	Mr. Navin Kumar Jha, Adv.
	:	Mr. Bachan Jee Ojha, Adv.
For the State	:	Mr. S.D. Yadav, AAG9
	:	Mr. Braj Bhushan Mishra, AC to AAG9

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

Date : 20-08-2024

Heard the learned counsel for the parties.

Re: I.A. No. 02 of 2024.

For the reasons mentioned in the above Interlocutory Application, the same is allowed.

Registry is directed to make necessary changes.

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

*“1. That this an application for
issuance of a writ of certiorari for quashing the*



order dated 05.10.23 passed by the Learned Divisional Commissioner, Patna in BTPDS Control Revision No. 274/2022 whereby and whereunder the PDS licence already granted by the District level selection communittee Buxar has been directed to cancel and District Officer has been directed to take decision to pass order.

RELIEFS:-

I. The impugned order dated 05.10.2023 passed by the learned Divisional Commissioner Patna be set-aside whereby and whereunder the PDS Licence already granted in favour of petitioner has been directed to be cancelled by the district officer Buxar.

II. The Respondent No. 5 be directed to make impartial enquiry in respect of academics certificate of the petitioner and if the same are found genuine, PDS Licence already granted, be made effective in favour of petitioner.

III. The operation of the impugned order dated 05.10.2023 passed by the Learned Divisional Commissioner Patna be stayed during pendency of this writ petition.”

3. The present writ petition has been filed by the petitioner seeking quashing of the order dated 05.10.2023 passed by the Divisional Commissioner, Patna in Supply Revision Case No. 274/2022. The facts in brief for the purpose of disposing the present writ petition are that the petitioner was selected as a PDS license dealer by the District Level Selection Committee. That the



Divisional Commissioner, Patna vide order dated 05.10.2023 has directed the District Officer, Buxar to cancel the license issued in favour of the petitioner, the Divisional Commissioner, Patna has passed the said order solely on the basis of the complaint made by the respondent No. 8 herein.

4. Learned counsel for the petitioner has stated that the petitioner was selected by the District Level Selection Committee after thorough scrutiny of the documents and certificates filed by him and after having found him to be eligible as per the merit list published, the petitioner was selected and was granted the PDS license. That the respondent No. 8 thereafter, filed a false complaint stating that the name of the petitioner is not Upendra Kumar but Pankaj Kumar Kamal. The authorities have called for an enquiry into the said allegation and the Sub-Divisional Officer made an extensive enquiry and submitted a report dated 04.01.2021. In the said report, it has been clearly stated that the certificates and documents issued in favour of the petitioner were found to be genuine. However, the Divisional Commissioner, Patna without adverting to the report dated 04.01.2021 of the Additional Sub-Divisional Officer, Buxar has passed the impugned order in a mechanical manner. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order passed



by the Divisional Commissioner, Patna dated 05.10.2023 and allow the present CWJC.

5. *Per contra*, the learned counsel appearing on behalf of the respondent-State and the respondent No. 8 have vehemently opposed the very maintainability of the present writ petition and stated that the petitioner has two names i.e., Upendra Kumar and Pankaj Kumar Kamal. That the authority concerned after due verification has found that the complaint made by the respondent No. 8 was genuine and passed the impugned order. Further, it is stated that the documents filed by the respondent No. 8 prove that the petitioner is known by two names and for the purpose of obtaining the PDS license, the petitioner has used the name of Upendra Kumar and while applying to the *Vikas Mitra* he has used the name of Pankaj Kumar Kamal. Learned counsel for the respondent-State and the respondent No. 8 have therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. Admittedly, as seen from the record, the Additional Sub-Divisional Officer, Buxar dated 04.01.2021 has verified the documents filed by the petitioner and also the documents filed by the respondent No. 8 and came to the conclusion that the documents issued in favour of the petitioner were found to be genuine and the petitioner is known only by the name of Upendra



Kumar and, moreover, it was further held in the report that the alleged application made in the name of Pankaj Kumar Kamal to the post of *Vikas Mitra* is suspicious one. However, the Divisional Commissioner, Patna while passing the order impugned in the present writ petition has not adverted to the said report and has passed the order in a mechanical manner solely based on the fact that a police complaint has been registered in the name of the petitioner.

7. This Court, vide order dated 14.05.2024, has directed the petitioner to file all the relevant documents to substantiate that the petitioner is known only by the name of Upendra Kumar. Pursuant to the said order, the petitioner has filed a rejoinder along with the relevant documents.

8. A perusal of the documents (Annexure-P/9 series of the rejoinder) reads as follows;

1. Photocopy of Admit Card, 2000 issued by the Bihar School Examination Board.
2. Photocopy of Marks Sheet, 2000 of Bihar School Examination Board, Patna.
3. Photocopy of Certificate dated 24.10.2000 of Bihar School Examination Board, Patna.
4. Photocopy of School Leaving Certificate dated 18.07.2000.
5. Photocopy of Admit Card, 2002 issued by the Bihar Intermediate Education Council, Patna.
6. Photocopy of Marks Statement dated 17.06.2002 of Bihar Intermediate Education Council, Patna.



7. Photocopy of Certificate dated 15.10.2002 of Bihar Intermediate Education Council, Patna.

8. Photocopy of Admit Cards for Bachelor of Arts of Veer Kunwar Singh University, Ara.

9. Photocopy of Mark Sheet dated 15.11.2005 of Veer Kunwar Singh University, Ara.

10. Photocopy of Provisional Certificate dated 19.08.2023 for Bachelor of Arts of Veer Kunwar Singh University, Ara.

11. Photocopy of Admit Card for Master of Arts of Veer Kunwar Singh University, Ara.

12. Photocopy of Marks Sheet dated 27.08.2007 for Master of Arts of Veer Kunwar Singh University, Ara.

13. Photocopy of Provisional Certificate dated 19.08.2023 for Master of Arts of Veer Kunwar Singh University, Ara.

14. Photocopy of Marks Sheet dated 28.07.2013 for Bachelor of Physical Education.

15. Photocopy of the Result Card dated 03.10.2023 of Bihar School Examination Board for Secondary Teacher Eligibility Test, 2023.

16. Photocopy of the Election Certificate dated 22.05.2011.

9. All the above documents filed by the petitioner reveal

that the petitioner is known only by the name of Upendra Kumar and not by any other name. It is pertinent to note that some of the documents filed by the petitioner pertain to the year 2000. The respondent No. 8 except filing the application obtained under the Right to Information Act, 2005 showing that the application has been made by the Pankaj Kumar Kamal, has not filed any other documents to substantiate the allegation, merely because a criminal complaint is filed and an FIR is registered against the



petitioner, the same cannot be the basis for cancelling the license issued in favour of the petitioner.

10. Having regard to the fact that the Additional Sub-Divisional Officer has already held that the documents in the name of the Pankaj Kumar Kamal is suspicious and also the documents filed by the petitioner substantiate that the petitioner is known only by the name of Upendra Kumar and not by any other name, the present writ petition is allowed, the impugned order dated 05.10.2023 is set aside consequently, the order dated 24.03.2024 passed by the SDM, Buxar is also set aside. The authorities are directed to resume the supplies of the grains to the petitioner immediately, if the same has been stopped. It is made clear that the criminal case pending against the petitioner shall be dealt with independently based on the evidence adduced by the parties and will not be influenced by this order.

11. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.08.2024.
Transmission Date	NA

