

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8308 of 2022

Asiya Khatoon @ Asiya Khatun Wife of Naiyeem, resident of Village - Belgachhi, P.O.- Makely Belgachhi, P.S. - Dagarua, District - Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Department of Food and Civil Supply, through its Principal Secretary, Government of Bihar, Patna.
3. The Principal Secretary, the Department of Food and Civil Supply, Bihar, Patna.
4. The Divisional Commissioner, Purnea.
5. The District Magistrate, Purnea.
6. The District Co-operative Officer, Purnea.
7. The District Supply Officer, Purnea.
8. The Sub-Divisional Officer, Baishi Purnea.
9. The Block Supply Officer, Baishi, Purnea.
10. Shama Parween, Wife of Md. Kaijafi, resident of Village - Belgachhi, P.S. - Dagarua, District - Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajiv Ranjan, Adv.
For Respondent No. 10	:	Mr. Shabbir Ahmad, Adv.
	:	Mr. AK Saxena, Adv.
For the Respondent/s	:	Mr. S. Raza Ahmad (Aag 5)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

11 31-01-2024 Heard the learned counsel for the parties.

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

“That this is an application for the issuance of appropriate writ or order/orders or direction/directions commanding the respondents to quash the order dated 03.03.2022 passed by the court



of Divisional Commissioner; purnea in Supply Appeal No. 05/2019 by which the Divisional Commissioner, Purnea has arbitrary and illegally and without applying the mind cancelled the PDS license of the petitioner and awarded the license to the petitioner and awarded the license to the private respondent by setting aside the order dated 29.09.2018 (merit list) and 30.11.2018 (selection list) prepared by the District Selection Committee merely on the false ground of non-possession of computer knowledge despite knowing the fact that certificate related to the computer knowledge of the petitioner forms an integral part of the application. The license of the petitioner has been cancelled after about 3 (three) years of granting license in flagrant violation of the set principles of law.”

3. Learned counsel for the petitioner has stated that the petitioner was initially selected as a PDS dealer in the year 2019 and thereafter, on the appeal filed by the respondent No. 10 herein, the Divisional Commissioner has allowed the appeal and set aside the selection of the petitioner. Learned counsel for the petitioner has stated that the petitioner is having the requisite qualifications and was therefore selected. However, the Divisional Commissioner has given a perverse finding that the petitioner is not the have necessary qualifications contrary to the record. Learned counsel has stated that the appeal filed by the respondent No. 10 was allowed mainly on the following three points.

(i) The petitioner did not possess the knowledge of



computer.

(ii) The petitioner possess lower educational qualification and

(iii) The petitioner resides in Ward No. 4 where two PDS shops were already in existence.

4. Learned counsel has stated that the petitioner was having the knowledge of the computer and to that effect the counsel has drawn the attention of the Court to the certificates filed by the petitioner (Annexure-4 & 4A at Page 56). Learned counsel has stated that the petitioner has studied up to intermediate whereas the respondent No. 10 is only a matriculate pass. Learned counsel has drawn the attention of the Court to Page 34 of the present writ petition which is a comparative chart prepared by the authorities wherein as against the name of the petitioner shown at Serial No. 4, it is shown that the petitioner is having a degree of *moulvi* which is equivalent to standard 12th, whereas the respondent No. 10 who is shown at Serial No. 6 in the said list is only having a degree of *fokania* which is equivalent to standard 10th. Further, in so far as the 3rd reason given for cancelling the license of the petitioner that she is residing in Ward No. 4 is concerned, the counsel has drawn the attention of this Court to the application (Page 32) filed by the petitioner wherein at Column No. 2 (jha), the petitioner has stated that she is residing at Ward No. 7 and not Ward No. 4 as contended by the respondents. Learned counsel has stated that the petitioner was having the requisite qualifications, however, the Divisional Commissioner by misconstruing the documents filed by the respondent No. 10 and under the influence of the respondent No. 10 has passed the impugned order of cancelling her selection. Further, learned counsel has stated that the



petitioner has obtained her application and the documents submitted by the petitioner along with her application under the Right to Information Act, 2005 and annexed the same before this Hon'ble Court. Further, it is stated that all the documents filed by the petitioner clearly establish the fact that the petitioner is having the requisite qualifications and that she is more qualified than the respondent No. 10 and, therefore, the order passed by the Divisional Commissioner which is impugned in the present writ petition has to be necessarily set aside and the petitioner be allowed to continue with the PDS license.

5. *Per contra*, learned counsel appearing on behalf respondent No. 10 has stated that the petitioner did not have the requisite qualifications as on the date of filing her objection. Learned counsel has stated that as per the provisions of Bihar Targeted Public Distribution System (Control) Order, 2016 more specifically Rule 9 Sub-clause 5, a person should only be matric pass and should have knowledge of computer. Learned counsel has stated that the petitioner did not have the requisite qualifications of computer knowledge as on the date of application. Further, it is stated that the Divisional Commissioner before passing the order has called for the entire record from the subordinate authorities and found that the petitioner did not have the necessary qualifications. That the documents i.e. computer knowledge certificates relied by the petitioner in the present writ petition were not available in the original record. Further, counsel has stated that the petitioner obtained the documents under the Right to Information Act, 2005 after the disposal of the appeal filed by the respondent No. 10. That the record was manipulated and, therefore, no credence or weightage can be given to the said documents. Learned



counsel has stated that the respondent No. 10 was having the requisite qualification as on the date of filing the application for PDS license and that the appeal was rightly allowed by the Divisional Commissioner.

6. Learned counsel appearing on behalf of respondent-State has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner did not have the requisite qualification of computer knowledge as on the date of filing of her application. Learned counsel has drawn the attention of the Court to the application filed by the petitioner (Page32) along with the present writ petition which shows that she has applied on 15.06.2017. Learned counsel has also drawn the attention of the Court to the Page 1 of the said application at Column No. 1 (cha) whereas against the column computer knowledge the petitioner has not filled the same with any degree or diploma and kept the same blank. Learned counsel has drawn the attention of the Court to the computer knowledge (obtained from AICT Computer Education) certificate enclosed by the petitioner along with the present writ petition which clearly reveals that the petitioner has completed the course and was given the certificate on 10.11.2017 only. Learned counsel has stated that the candidature of the petitioner has been rightly set aside by the Divisional Commissioner as the petitioner did not have the requisite computer knowledge as on the date of applying for the license. Therefore, learned counsel for the respondent-State has prayed this Hon'ble Court to dismiss the present writ petition.

7. Admittedly as seen from the available record, the petitioner in her application form did not fill the Column No. 1 (cha), wherein the computer knowledge was asked but the



petitioner has kept the same blank. There is no controversy with regard to the date of making the application as the same was done on 15.06.2017.

8. A perusal of the documents filed more specifically, the computer knowledge certificates filed by the petitioner reveals that the same were obtained on 10.11.2017 i.e. much after the date of filing the application. Further as seen from the record in the comparative chart, the petitioner is shown to be having a degree of *moulvi* which is equivalent to standard 12th however as against the computer knowledge it is shown that the petitioner did not possess any computer knowledge. Admittedly in the present case, the petitioner did not have the knowledge of computer which is mandatory under the provisions of Bihar Targeted Public Distribution System (Control) Order, 2016. The computer knowledge obtained by the petitioner is in the month of November, 2017 i.e. much after the date of filing her application for the said post. The record filed by the petitioner clearly establishes the fact that the petitioner did not have the requisite qualification as on the date of making her application for PDS license. Any qualification obtained after the date of making the application cannot be taken into consideration by the authority. The Divisional Commissioner duly taking into account the above fact has set aside the order appointing the petitioner as PDS licensee, the order does not suffer from any infirmity or illegality and the same is in accordance with law.

9. Having regard to the above, this Court does not find any illegality or perversity in the order passed by the Divisional Commissioner, the order of the Divisional Commissioner is perfectly in consonance with the well established principles of law and also the provisions of the Bihar Targeted Public



Distribution System (Control) Order, 2016. There are absolutely no merits in the present writ petition which warrants any interference by this Hon’ble Court. The present writ petition is accordingly dismissed.

(A. Abhishek Reddy, J)

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