

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10986 of 2023

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Asha Kumari W/o Brajesh Kumar Bablu, Resident of village-Shakarpura
Betauna, Block, P.S. and District-Madhepura ... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Old Secretariat, Patna.
 2. The Commissioner, Koshi Division, Saharsa.
 3. The District Magistrate, Madhepura.
 4. The District Supply Officer, Madhepura.
 5. The Sub-Divisional Officer, Madhepura.
 6. Block Supply Officer, Madhepura. ... Respondents
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Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Adv. with
M/s Vijay Anand & Kumar Rajdeep, Advs.
For the Respondents : Mr. Anisul Haque, AC to AAG V

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

6 21-11-2024 Heard the parties.

2. The present writ petition has been filed for the following relief(s) :

“..... for setting aside the order dated 08.05.2023 passed by Learned Divisional Commissioner, Saharsa in Koshi Supply Revision Division, Case 138/2022 whereby and whereunder No. the revision application preferred by the petitioner rejected on the ground that the Residential Certificate issued on the address of her sasural but as per Rule it was issued in the address of Maiké and in the same ward the shop of the PACS was already existed.”

3. Learned counsel for the petitioner has stated that the petitioner was selected as a PDS Dealer and necessary



orders were also issued in her favour appointing her as a PDS Dealer. That when the petitioner was not issued the necessary food grains for distribution, the petitioner was constrained to move this Court by way of CWJC. This Court by order, dated 12.10.2022 passed in C.W.J.C. No. 8306 of 2019 has directed the petitioner to approach the Divisional Commissioner. Thereafter the petitioner has approached the Divisional Commissioner by way of representation and the Divisional Commissioner instead of verifying and passing orders addressing her grievance, i.e., non-allotment of foodgrains has cancelled the PDS license issued in favour of the petitioner. That the cancellation was on two grounds that (1) the petitioner did not have the computer knowledge and (2) that already license was issued in favour of the PACS in respect of the very same ward and the petitioner was not entitled for any PDS license. Learned counsel appearing on behalf of the petitioner has stated that the order passed by the Divisional Commissioner is erroneous and is liable to be set aside on the following grounds. (1) That the selection of the petitioner as PDS dealer was not challenged by anybody therefore question of setting aside the selection by the Divisional Commissioner does not arise. (2) That the Divisional Commissioner has misconstrued



the provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016, Control Order, 2016, and came to the wrong conclusion that the petitioner does not have the requisite knowledge of computer. That as a matter of fact the Divisional Commissioner has failed to see that the petitioner was the only eligible candidate and it is only in cases where there are two or more eligible candidates then the preference to the persons having computer knowledge would be given. The only requirement under the Control Order, 2016, is that the applicant should be a matric pass and should be an adult. Therefore the Divisional Commissioner was wrong in setting aside the PDS license of the petitioner on the ground that the petitioner did not have the computer knowledge. Further it is stated by the counsel that the authorities in their counter affidavit did not deny the averments made by the petitioner that the PDS license issued in favour of the PACS was in Ward No. 14 and not in Ward No. 13 for which the petitioner was given the PDS license.

4. A perusal of the documents filed reveals that the petitioner was the only eligible candidate who was selected as PDS dealer for Ward No. 13. The only grievance of the petitioner was that in spite of being appointed as a PDS dealer she was not receiving the foodgrains for distribution.



However, the Divisional Commissioner without verifying the above fact has went on to cancel her PDS license, when there was no challenge to her selection as a PDS Dealer. Further a perusal of the Control Order, 2016, more specifically Rule 9 Control Order, 2016, reveal that besides other conditions, the following conditions are mandatory that “*the applicant of a fair price shop's license must be matric pass and an adult and 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*”.

5. A bare reading of Rule 9 of the Control Order, 2016, does not mandate that where a single eligible applicant is there they should have computer knowledge. It only mandates that where there are two or more applicants for a particular ward then preference should be given to the person having the computer knowledge. Further the authorities in their counter affidavit have not denied the stand taken by the petitioner at paragraph 26 of the Writ Petition, i.e., that the PDS Dealer issued in favour of PACS is in Ward No. 14 and not in Ward No. 13.



6. Having regard to the above mentioned facts and circumstances the impugned order is liable to be set aside and is, accordingly, set aside. The PDS license of the petitioner is restored. The Sub Divisional Officer concerned is directed to verify and supply the foodgrains to the petitioner as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order.

7. With the above directions, the Writ Petition stands disposed of.

(A. Abhishek Reddy , J)

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