

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8949 of 2023

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Ganesh Rai @ Ganesh Roy, aged about 51 years, Male, Son of Late Ram Lakhan Rai @ Ram Lakhan Roy, Resident of Village- Arapatti (Thanwar), Post- Arapatti, P.S.- Mahishi, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Commissioner, Kosi Division, Saharsa.
3. The District Magistrate, Saharsa.
4. The Additional Collector, Saharsa.
5. The District Supply Officer, Saharsa.
6. The Sub- Divisional Officer, Saharsa.
7. The Block Supply Officer, Mahishi, Dist.- Saharsa.
8. The Circle Officer, Mahishi, Saharsa.
9. Niraj Kumar Roy, Son of Harshit Roy Resident of Village- Thanwar, P.O. Arapatti, P.S. Mahishi, District- Saharsa.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 12517 of 2023

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Niraj Kumar Roy, Male, aged about 28 years, Son of Harshit Roy, Resident of village-Thanwar, P.O.-Arapatti, P.S.- Mahishi, District-Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Divisional Commissioner, Koshi Division, Saharsa.
3. The District Magistrate, Saharsa.
4. The District Supply Officer, Saharsa.
5. The Sub-Divisional Officer, Sadar, District-Saharsa.
6. The Block Supply Officer, Mahishi, District-Saharsa.
7. The Circle Officer, Mahishi, District-Saharsa.
8. Ganesh Rai Son of Late Ram Lakhan Rai, Resident of village and P.O.- Arapatti, P.S.-Mahishi, District-Saharsa.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 8949 of 2023)

For the Petitioner/s : Mr. Subesh Sharma, Advocate.

For the State : Mr. S. Raza Ahmad (AAA 5)

(In Civil Writ Jurisdiction Case No. 12517 of 2023)



For the Petitioner/s : Mr. Sailendra Kumar Singh, Advocate.
Mr. Subesh Sharma, Advocate.
For the State : Mr. S. Raza Ahmad (AAG 5)with
Mr. Anisul Haque, AC to AAG-5.
For the Respondent/s : Mr. Pramod Mishra, Advocate.
Mr. Prasoon Kumar, Advocate.

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

16 17-12-2024 Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the following reliefs:-

“.....for quashing/setting aside the order of the learned Commissioner, Kosi Division, Saharsa passed in Supply Revision Case No. 116/2022 dated 09.06.2023 by which setting aside the appointment of Food Grains Dealer under Public Distribution System 2016 and directing the District Magistrate to initiate the appointment of Food Grains Dealer for the village Arapattin under Mahishi Block and be pleased to appoint the petitioner instead.”

3. The facts in the Writ Petition No. 8949 of 2023 are reiterated herein:-

The petitioner aggrieved by the order dated 09.06.2023 passed by the Divisional Commissioner, Kosi Division, Saharsa in setting aside his selection and also directing a fresh selection to be made has filed the present writ petition. The Respondent No. 9 herein has also filed a separate writ petition bearing No. 12517



of 2023 aggrieved by the action of the Divisional Commissioner, Kosi Division, Saharsa in directing the authorities to conduct a fresh selection.

4. Learned counsel appearing on behalf of the petitioner has stated that the Divisional Commissioner, Kosi Division, Saharsa has passed the impugned order dated 09.06.2023 mainly on two grounds that the Flour Mill belonging to a distant relative of the petitioner, is been operated by the petitioner. Learned counsel has stated that there is nothing on record to establish that the Flour Mill belongs to the petitioner and that he is the owner of the same. The said conclusion was reached solely basing on the enquiry report submitted by the enquiry officer. Further, it is stated that the authority without verifying the caste certificate has come to the conclusion that the certificate produced by the petitioner is obtained by fraudulent means. Learned counsel has stated that as long as the caste certificate is not cancelled by a competent authority, the authority cannot reject his candidature on this ground.

5. Learned counsel appearing on behalf of the Respondent No. 9 has assailed the action of the Divisional Commissioner, Kosi Division, Saharsa in remanding the matter



back to the authorities for conducting a fresh selection. Learned counsel has stated that the authority after the rejection of the application made by the petitioner ought to have directed the authorities to select the next person in the merit list. However, instead of selecting the Respondent No. 9, the Divisional Commissioner has directed the authorities to conduct a fresh selection. Therefore, the Respondent No. 9 had to necessarily file a separate writ petition challenging the part of the order where the Divisional Commissioner has directed for conducting a fresh selection.

6. Per contra, the learned counsel appearing on behalf of the Respondent-State has supported the order of the Divisional Commissioner, Kosi Division, Saharsa and stated that the Divisional Commissioner after a thorough verification of the record has come to the conclusion that both the petitioner as well as the Respondent No. 9 are not eligible for being selected as directed the authorities to conduct a fresh selection. Learned counsel has drawn the attention of this Court to the various documents filed along with the supplementary counter affidavit more particularly the application forms submitted by the petitioner as well as the Respondent No. 9 and also the enquiry report submitted before the Divisional Commissioner.



Learned counsel has, therefore, prayed this Court to dismiss the present writ petition.

7. A perusal of the documents more particularly, the application form submitted by both the petitioner as well as the Respondent No. 9, it is seen that as against the Column No. 3 wherein the applicant was supposed to indicate whether he was claiming any reservation based on caste and if so enclose the caste certificate to which he belongs should be annexed along with the application. As against the Column No. 3 both the petitioner as well as the Respondent No. 9 have left the column blank. In so far as the petitioner is concerned, as against the Column No. 11 where he was supposed to indicate whether he was having any *Atta Chakki* or not, the petitioner has mentioned that he is not having any Flour Mill. However, in the enquiry report it was found that the petitioner was having the Flour Mill. In the application of the Respondent No. 9 as against the Column No. 3, the Respondent No. 9 has left it blank without filling the same.

8. Irrespective of the fact whether the petitioner is the owner of the Flour Mill or not and whether it belongs to a distant relative of his, the fact remains that the applications made by both the petitioner as well as the Respondent No. 9 are



defective as they have not filled up all the columns. When the applicants have not filled up the form most specifically with regard to the caste reservation that they are claiming that they belong to a particular caste and that they are entitled for the benefit of the said reservation. This Court is of the opinion that the Divisional Commissioner, Kosi Division, Saharsa has rightly set aside the selection of the petitioner and directed for a fresh selection process to be made as the entire selection process was not properly conducted.

9. Having regard to the above, this Court does not find any merit in the CWJC and accordingly both the writ petitions are dismissed. However, it is made clear that in case, any fresh selection process takes place the petitioner as well as the Respondent No. 9 are entitled to be considered, if their application are found to be proper and in accordance with law.

10. With the above directions, the present writ petitions stand **dismissed**.

(A. Abhishek Reddy, J)

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