

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10937 of 2023

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Shailendra Kumar, Son of Prabhu Nath Chaudhary, Resident of Hatiyahi,
P.O.-Tikulia via-Damodarpur, P.S.-Pipra Kothi, District-East Champaran-
845416.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Food and Consumer Protection Department,
Government of Bihar, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, East Champaran at Motihari.
5. The Sub-Divisional Officer, Motihari Sadar, East Champaran at Motihari.
6. The District Selection Committee through its Chairman, East Champaran at
Motihari.
7. Shambhu Kumar Nishadh, son of Prahlad Chaudhary, Resident of Village-
Bishunpur, P.O. Dhekahan Bazar, P.S. Pipra Kothi, District-East Champaran.
8. Saroj Kumar, son of Ramakant Chaudhary, Resident of Village-Dhekahan
Bazar, P.O. Dhekahan Bazar, P.S. Piprakothi, District-East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Kumar Kaushik, Adv. Ms. Namrata Dubey, Adv.
For the Respondent/s	:	Mr. Anisul Haque, AC to AAG 5
For the Resp. No. 7		Mr. Suresh Singh, Adv. Mr. Dhananjay Kumar, Adv.

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

11 10-12-2024 Heard the learned counsels for the parties.

2. This writ petition has been filed for seeking the
following relief(s)

“i. For issuance of an order, direction or a writ of certiorari for quashing and setting aside the order dated 23.06.2023 passed by respondent number 3 in P.D.S. Revision Case No. 49/ 2023 whereby and whereunder the claim of the writ petitioner for allotment of shop under Public Distribution System



Scheme under the EBC Category for Dhekahan Panchayat, Pipra Kothi Block, District-of East Champaran at Motihari has been rejected and the claim of intervener (respondent number 7 herein) has been directed to be processed by the District Level Selection Committee.

ii. For issuance of an order, direction or a writ of certiorari for quashing and setting aside the final select list approved in of the meeting of District Selection Committee dated 02.11.2018 to the extent to which the respondent number 8 was selected in place of the writ petitioner for allotment of shop under the Public Distribution System Scheme under the E.B.C. Category for Dhekahan Panchayat, Pipara Kothi Block, District-East Champaran at Motihari.

iii. For issuance of an order, direction or a writ of mandamus for directing the respondent authorities to consider the candidature of the writ petitioner for selection under the Public Distribution System for allotment of shop pursuant to advertisement dated 30.11.2017.

iv. For issuance of an order, direction or an appropriate writ for restraining the respondent authorities from allotting the shop to the respondent number 7 pursuant to the impugned order dated 23.06.2023 and final select list approved on 02.11.2018 against the advertisement dated 30.11.2017 during the pendency of the present writ application.”

3. Learned counsel appearing on behalf of the petitioner has stated that the petitioner has applied to the PDS dealership pursuant to the advertisement given by the authorities on 30.11.2017 for Dekhahan Panchayat under Piprakothi Block, District East Champaran at Motihari. Learned counsel has stated



that the petitioner is graduate having requisite computer knowledge and the provisional merit list prepared by the authorities, in the remarks column it is simply stated that the petitioner has not enclosed the residential certificate and also the fact of having computer knowledge. Thereafter, the authorities took a decision on 07.08.2018 that the application of the petitioner will be scrutinized only on the available documents. Though the petitioner has submitted his requisite documents even prior to the cutoff date issued by the authorities calling for any objections, i.e., 19.09.2018, that the certificates of the petitioner were not taken into consideration. Thereafter the authorities have taken a decision to select Respondent No. 8 who was standing second in the provisional merit list. When it was subsequently found that the documents submitted by the Respondent No. 8 were not genuine, his candidature was cancelled. That the petitioner had approached this Hon'ble Court by way of CWJC No. 1058 of 2019 and this Hon'ble Court vide order dated 10.01.2023 has remanded back the matter to the authorities concerned for taking a decision afresh. Thereafter, the petitioner has filed the representation before Respondent No. 3, i.e, the Divisional Commissioner who has passed the order dated 23.06.2023 rejecting the representation of



the petitioner. Learned counsel has stated that the Respondent No. 3 has contrary to the earlier decision taken by the authorities has taken a new stand stating that the application submitted by the petitioner itself is defective. That in the application submitted by the petitioner there is no averment with regard to the computer knowledge of the petitioner and on this ground the candidature of the petitioner was rejected and Respondent No. 7 has been selected as PDS dealership. Learned counsel has stated that the application was purchased by the petitioner from the vendor who has wrongly given the application pertaining to the year 2001 and therefore, in the said application there was no column with respect to the computer knowledge. However the petitioner had already filed the computer certificates even before the cutoff date for filing objections. Learned counsel has stated that as on date of taking a decision, the petitioner was having the requisite qualifications and the same were enclosed but, the authority without considering the same has rejected the application of the petitioner in a mechanical manner.

4. Per contra, the learned counsel appearing on behalf of the respondents-State as well as the Respondent No. 7 have vehemently opposed the very maintainability of the writ



petition. Learned counsel has stated that the application of the petitioner was itself defective, therefore, the authorities have rightly come to the conclusion that the candidature of the petitioner cannot be accepted. That the basic requirement for appointment of PDS dealership is that they should have passed the matriculation and should have computer knowledge. However in the application filed by the petitioner, the factum of the petitioner having computer knowledge has not been stated. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the documents more particularly clause 2 of the Advertisement (Annexure 1 to the writ petition) and Schedule I (Cha) (Annexure A series of the counter affidavit), which is an individual application form for obtaining license of PDS dealership, reveals that the applicant is bound to mention in Schedule I(Cha) that he is having the computer knowledge. As evident from the application (Annexure 2) filled up by the petitioner, the said column itself is missing and the petitioner has not stated anywhere that he has having computer knowledge. When the application itself is defective the subsequent act of the petitioner trying to rectify the said defect by submitting the copy of the computer certificate will not cure



the said defect. Any application has to be scrutinized and verified as on the date of the said application and not after that.

6. This Court does not find any merit in the present writ petition which warrants any interference with the order dated 23.06.2023 passed by the Divisional Commissioner (Respondent No. 3) rejecting the application of the petitioner. The present writ petition is, accordingly, dismissed however without cost.

(A. Abhishek Reddy , J)

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