

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18088 of 2022

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Gulab Kishore Mandal son of Late Malik Mandal, resident of Village- Sarua,
Gram Panchayat- Damodra, Police Station and Block- Katoria, District-
Banka ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Bhagalpur.
3. The Collector-cum- District Magistrate, Banka.
4. The District Officer-cum- Chairman, District Selection Committee, Banka.
5. The Sub- Divisional Officer, Banka.
6. The District Supply Officer, Banka.
7. The Block Development Officer, Katoria, Banka.
8. The Block Supply Officer, Katoria, Banka.
9. Pawan Kumar son of Suresh Kumar Saurabh, resident of Village- Bhelwa, Panchayat Bharsar Bhelwa, P.S. Katoria, District- Banka. ... Respondents

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Appearance :

For the Petitioner : Mr.Md. Najmul Hodda, Adv.
For the Respondents : Mr.Anisul Haque, AC to AAG V

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

5 07-08-2024

Heard the parties.

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

I. For issuance of a writ of certiorari or any other appropriate writ order or direction for quashing the order dated 03.06.2022 in Supply Appeal Case No. 01 of 22-23 passed by the respondent no. 3 The District Collector cum District Magistrate, Banka by which he has most arbitrarily and quite erroneously dismissed the appeal without considering the merit of the case as the private respondent no. 8 has not fulfilled the criteria as per the Act.

II. For issuance of a writ of certiorari or any other



appropriate writ order or direction for quashing the order dated 21.09.2022 in Supply Revision Case No. 14/2022-23 passed by the respondent no. 2 the Divisional Commissioner, Bhagalpur rejecting the Revision application by confirming the order dated 03.06.2022 in Supply Appeal Case No. 01/2022-23 passed by the respondent no. 3 by which he has dismissed the appeal by ignoring the provision of the Act.

III. For issuance of a writ of merit of certiorari or any other appropriate writ order or direction commanding the respondent authorities for quashing the order dated 23.05.2022 contained in letter no. 344 issued by respondent no. 5 S.D.O., Banka by which he has granted P.D.S. license no. 01/2021 in favour of the private respondent no. 9 on the direction of the District Selection Committee 12.08.2021 contrary to law.

IV. For issuance of a writ of mandamus or any other appropriate order or direction commanding the respondent authorities to issue P.D.S. License of Damodra Gram Panchayat, Block- Katoriya, Banka in favour of the petitioner by setting aside above both the orders which have been passed by ignoring the fundamental provision of the Act as the private respondent no. 9 has got P.D.S. license of Damodra Panchayat by suppressing fact and also by making some forged documents.

V. For any other relief or reliefs for which the petitioner may be entitled, deemed fit and proper in the facts and circumstances of the case.



3. The brief facts necessary for the purpose of disposing the present CWJC are that the petitioner pursuant to the advertisement given for appointment of PDS shop license to the various Panchayats of Banka District had applied for grant of license for Gram Panchayat Damodra, Block Katoria, Banka District. That the District Selection Committee after receipt of the applications from the various persons have published the merit list and the name of the petitioner figured at serial no. 2 in the said merit list, while that of the Respondent No. 9 figured at serial No. 1. The petitioner filed his objections contending that the Respondent No. 9 already had a fertilizer shop license in his name and therefore he was ineligible for grant of PDS shop license. The District Selection Committee vide Memo No. 108, dated 23.02.2019 upheld the objection of the petitioner and stated that action would be taken in the next meeting. Thereafter the authorities have issued the PDS license in favour of the Respondent No. 9. Aggrieved by the said auction, the petitioner has preferred an appeal before the Collector and thereafter a revision before the Divisional Commissioner but to no avail and the appeal and revision filed the petitioner were dismissed. The petitioner left with no other option has filed the present CWJC.

4. Per contra, the learned counsel appearing on behalf of the State has stated that the application of the petitioner along with the



others were processed by the District Selection Committee and it was found that the petitioner was standing second in the merit list prepared. That the Respondent No. 9 had more marks in the intermediate exam and, therefore, the Respondent No. 9 was placed above the petitioner. That both the Appellate Authority as well as the revisional authority having found that there are no merits in the allegation made by the petitioner have dismissed the appeal and revision filed by the petitioner. That the order passed by the authority does not suffer from any illegality or infirmity, therefore, the Writ Petition may be dismissed.

5. This Court vide order, dated 16.04.2024, issued notice to Respondent No. 9. Office note has been put stating that the Respondent No. 9 has refused to accept the notice. Thereafter on verification it was found that the Respondent No. 9 has not appeared either in person or through a counsel and vide order, dated 23.07.2024, this Court having found that the service of notice on Respondent No. 9 is valid has set him ex parte.

6. Admittedly, in the present case the petitioner had filed his objections immediately after the merit list was prepared and the District Selection Committee in its wisdom vide Memo No. 108, dated 23.02.2019, had accepted the objections made by the petitioner and came to the conclusion that the Respondent No. 9 is not eligible



to be selected. The main ground taken by the petitioner for objecting to the inclusion of the Respondent No. 9 is that the Respondent No. 9 was having a fertilizer shop license in his name, that he is a resident of another Gram Panchayat, i.e., Bharsar Bhelwa and that the mother of Respondent No. 9 was working as an Agan Bari Sevika of the said Gram Panchayat.

7. A perusal of the impugned order passed by both the appellate as well as the revisional authorities does not advert to the above objections made by the petitioner except stating that there is no bar for a persons having fertilizer license to apply for PDS license nothing has being directed with regard to the above two objections. The other two objections taken by the petitioner have not been adverted to at all. The petitioner has filed his objections well within the time granted and the District Selection Committee came to the conclusion that Respondent No. 9 is not qualified for being selected as a PDS shop dealership. The appellate as well as the revisional authorities did not advert to the observations made by the District Selection Committee vide Memo No. 108, dated 23.02.2019.

8. Having regard to the above mentioned facts and circumstances, the impugned order passed by both the revisional as well as the Appellate Authorities are set aside. The matter is remitted back to the Appellate Authority to consider the objections made by



the petitioner afresh and pass necessary orders in accordance with law.

9. It is needless to mention that before passing any orders, the petitioner as well as the Respondent No. 9 shall be put on notice and given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.

10. With the above directions, the present Writ Petition is **allowed** to the extent indicated.

(A. Abhishek Reddy , J)

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