

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1905 of 2019

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Renu Kumari Wife of Shri Shyam Kumar Mandal resident of Village and Post Haripur, Ward No. 09, P.S. Forbesganj, District Araria.

... .. Petitioner/s

Versus

1. The State of Bihar represented through the Secretary, Food and Consumer Protection Department, Government of Bihar, Old Secretariat, P.O. Sachivalaya, Patna- 800015, Bihar.
2. The District Magistrate, Araria
3. The Sub Divisional, Araria District- Araria.
4. The District Supply Officer, Araria.
5. Smt. Laxmi Devi Wife of Shri Sachin Kumar, resident of Village and Post-Haripur, Ward No. 05, P.S. Forbesganj, District Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Sharma, Advocate
For the Respondent/s : Mr. Arvind Ujjwal (SC 4)

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 16-09-2025

1. The Writ petition is filed for the following reliefs:-

“(i) To quash and set aside the selection of the Respondent No. 5 as a Public Distribution Shop Dealer of Haripur Gram Panchayat in Forbesganj Block in District: Araria on the basis of objection filed by Respondent No. 5 as contained in (Annexure-P/5) pursuant to selection process carried out under Advertisement contained in Memo



No. 48 dated 20.01.2018 issued by the District Magistrate, Araria (Annexure-P/1);

(ii) To direct for selection of this petitioner as one of the Public Distribution Shop Dealers for Haripur Gram Panchayat in Kumarkhand of Block Forbesganj in District: Madhepura as she was selected and recommended by the competent authority, however, the same was later changed and the private respondent was illegally selected;

(iii) To revert back to and to restore the merit list as contained in Annexure- P/4 in which the name of the petitioner finds at first place and is shown to be selected as a PDS Dealer;

(iv) To any other relief or relief which the petitioner may be found entitled to in the facts and circumstances of the case;

(v) Cost of this litigation."

2. Upon perusal of the records, it appears that by order dated 22.02.2019, this Court issued notice to Respondent No. 5 and directed the



respondent State to file a counter affidavit. For better appreciation, the order dated 22.02.2019 is reproduced below:

“Learned counsel for the petitioner has drawn attention of this court towards the note appearing at Annexure-5 to the writ application which shows that the private respondent has been selected by taking her graduation marks as 58.01% in comparison to the graduation marks of the petitioner as 56.33%.

Learned counsel for the petitioner submits that getting higher percentage of marks does not mean higher qualification. It is submitted that otherwise this petitioner being nine years elder in age is entitled to be given preference over private respondent if the educational qualification remains the same.

Learned counsel for the State submits that he would file a counter affidavit within four weeks. Let him do so.

Issue notice to respondent no. 5 by both modes ordinary process as well as under registered cover with A/D, for which requisites etc. must be filed within one week, failing which this application as against respondent no. 5 shall stand



dismissed without further reference to the Bench.

List this matter on 5th April 2019.

The license granted to respondent no. 5 shall be subject to final result of this case.”

3. Pursuant to the aforesaid order, Respondent No. 5 appeared through vakalatnama

4. However, neither the State respondents nor Respondent No. 5 have filed any counter affidavit.

5. At this juncture, the Learned counsel for the respondents contended that Section 32(iii) of the Bihar Targeted Public Distribution System (Control) Order, 2016 provides for the provision of appeal and Section 32(vi) of the Bihar Targeted Public Distribution System (Control) Order, 2016 provides for the provision of revision. Section 32(iii) 32(v) and 32(vi) read as follows:

“32 (iii). Any person aggrieved by an order of the licensing authority denying the issue or renewal of the license to the fair price shop owner or cancellation of the license may appeal



to the District Officer within thirty days of the date of receipt of the order and the District Magistrate shall, as far as practicable, dispose the appeal within a period of sixty days.”

32. (v) Till the disposal of appeal pending, the Appellate Authority may direct that the order under appeal shall not take effect for such period as the authority may consider necessary for giving a reasonable opportunity to the other party under sub-clause (4) or until the appeal is disposed of, whichever is earlier.

(vi) Due to non disposal of the appeal within sixty days by the District Officer or against the order passed in the appeal, a revision may be filed before the Divisional Commissioner. The revision shall be disposed of within two months.

6. Admittedly, from the reliefs prayed for in the Writ petition, it is evident that the petitioner has an alternative remedy under the provisions of Bihar Targeted Public Distribution System (Control) Order, 2016.



7. The remedy available under the Act is to prefer an appeal before the District Magistrate. As the District Magistrate is the head of the Selection Committee, he cannot review his orders in an appeal. Therefore, the petitioner is directed to file a complaint/application before the Divisional Commissioner.

8. The Learned counsel for the petitioner contended that he intends to file a complaint/application before the concerned authority, but the limitation period for filing the same has lapsed. He prayed for a direction to the concerned authority to entertain the same in accordance with Section 5 of the Limitation Act.

9. Taking into consideration that the petitioner has an alternative remedy for filing complaint/application, the Writ petition is disposed of with a direction to the petitioner to file complaint/application within one month from the date of receipt of this order before the concerned authority. The delay in filing the complaint/application shall be condoned by the authority



concerned, and the authority shall dispose of the same within three months from the date of filing of the same.

10. With the above said observation, the Writ petition is disposed of.

11. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.09.2025
Transmission Date	

