

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.83 of 2025

In
Civil Writ Jurisdiction Case No.12517 of 2023

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Niraj Kumar Roy S/o Harshit Roy R/o Vill - Thanwar, P.O. - Arapatti, P.S. -
Mahisi, District- Saharsa.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secreary, 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- Didivional 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 :

For the Appellant/s : Ms. Aditi Medha, Advocate
For the Respondent/s : Mr. Additional Advocate General (5)

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

5 21-11-2025

Re: I.A. No. 02 of 2025

Learned counsel for the appellant presses IA No. 02 of
2025 for condoning the delay of 05 days in preferring the
present appeal.

2. Vide Order dated 25.08.2025, notice was issued on
limitation to the Respondent No. 8.



3. Vide office notes dated 03.11.2025 service of notice has been validly served to Respondent No. 08.

4. In light of the service of notice validly served, and for the reasons stated in the application, the delay of 05 days in preferring the present appeal is condoned.

5. IA No. 02 of 2025 stands allowed.

Re: L.P.A. No. 83 of 2025

The present *intra* court appeal has been preferred against the order dated 17.12.2024 passed by the learned Single Judge of this court in C.W.J.C. No. 8949 with C.W.J.C. No. 12517 of 2023, whereby the learned Single Judge has dismissed the aforesaid writ applications and affirmed the order of Divisional Commissioner, Kosi Division, Saharsa District wherein direction for fresh selection process for grant of PDS license was issued.

2. The brief facts of the present case are that an advertisement was published for grant of PDS license by the Collectorate Saharsa for Ward No.2, Village -Thanwar, Gram Panchayat Raj- Arapatti, Block-Mahishi, District-Saharsa reserved for Backward Category (B.C.) candidate. The appellant and the Respondent No. 8 had applied for the same and Respondent No. 8 was granted license under the said vacancy.



The appellant raised certain objections regarding grant of license to Respondent No. 8 which were not resolved by the concerned authorities and, therefore, he moved to this Court. *Vide* order dated 24.08.2022, passed in C.W.J.C. No. 10035 of 2021, directions were issued to Divisional Commissioner to consider the complaint of the appellant. The Divisional Commissioner *vide* order dated 09.06.2023 directed for conducting fresh selection process in light of irregularities in the selection process and cancelled the grant of license to Respondent No. 8. The appellant moved to the Writ Court challenging the order of Divisional Commissioner and contended that the appellant ought to have been given license in view of Rule-6, clause-(ii) of “Targeted Public Distribution System (Control) Order 2016” published in “Bihar Gazette” dated 14.03.2016.

3. The learned Single Judge while passing the impugned order, on the basis of material on record, held that none of the petitioners had correctly filled up all the columns in their application form and that their applications were defective. The learned Single Judge, therefore, came to the conclusion that the selection process was not done properly and the Divisional Commissioner, Kosi, Saharsa had rightly directed for



conducting a fresh selection process. The relevant paragraph of the impugned judgment is reproduced as under:-

“8.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.”

4. The learned counsel for the appellant submits that he ought to have been considered for the grant of said license as he was next eligible candidate in the merit list published by the office of Respondent No.-5, in Letter No. 1613 dated 12.07.2019. The learned counsel for the appellant further submits that he fulfilled the reservation criteria under Rule-6, clause-(ii) of “Targeted Public Distribution System (Control) Order 2016” published in “Bihar Gazette” dated 14.03.2016 which reads as under:-

“(ii) If there is no suitable scheduled tribe applicant for the fair price shop reserved for scheduled tribe candidate, it shall be filled up by a scheduled castes applicant and if there is no suitable applicant for the fair price shop reserved for extremely Backward Classes candidate, it shall be filled up by a backward class candidate or vice versa.”

5. The learned counsel for the Respondent-State submits that there is no illegality or infirmity in the order of the learned Single Judge and the impugned order was passed after careful consideration of materials available on record and is



well founded and supported by reason. Therefore, the order of the learned Single Judge requires no interference by this Court.

6. Upon perusal of record, it is apparent that the appellant had not filled the relevant columns in his application. Further, the order of Divisional Commissioner had cited irregularities in the entire selection process which has also been observed by the learned Single Judge. The relevant paragraph of the impugned judgment is reproduced as under:-

“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.”

7. In light of the fact that the appellant had applied for a Backward Class (B.C.) category vacancy and submitted an incomplete and defective application form, wherein his category was not stated, (as evident from Annexure – 3a, 4a and 4b of the present appeal), the Rule-6, clause-(ii) of “Targeted Public Distribution System (Control) Order 2016” published in “Bihar Gazette” dated 14.03.2016 will not be applicable to the appellant’s case.

8. It should also be noted that no prejudice is caused to the appellant as he has not been barred from participating in the fresh selection process.

9. Considering the materials available on record, and the discussions made above, we do not find any illegality or perversity in the order of learned Single Judge. We, therefore, find no reason to interfere in the order of the learned Single



Judge, and the order is, accordingly, affirmed.

10. Further, it has been informed to this Court that till date, no fresh process of selection has been carried out in spite of the directions passed by the Writ Court *vide* its order dated 17.12.2024. The respondent authorities are directed to ensure that the entire process of selection is completed within a period of six months from the date of receipt/production of a copy of this order.

11. Accordingly, the present appeal stands disposed of with the aforesaid observations and directions.

12. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, ACJ)

(Rajesh Kumar Verma, J)

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