

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2626 of 2024

Md Meharban Alam, Male, aged about 31 years, Son of Md. Mobarak Alam
Resident of Village-Hatgachhi, P.O.-Tauli Kola, P.S.-Amour, District-Purnia
Bihar-854330.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Old Secretariat, Patna.
2. The Secretary, Food and Consumer Protection Department, Government of Bihar, Old Secretariat, Patna.
3. The Divisional Commissioner, Purnea Division, Purnea.
4. The District Magistrate-Cum-Collector, Purnea.
5. The District Selection Committee, Purnea Under the Chairmanship of District Magistrate, Purnea.
6. The Sub-Divisional Officer-Cum-Licensing Authority, Purnea.
7. The Block Supply Officer, Amour, Purnea.
8. Nisar Ahmad, Male, aged about 33 years, S/o-Md. Mokarram R/o-Village-Bakaniya Toli, Dagrua, Tauli, P.S.-Dagrua, District-Purnea, Bihar-854330.
9. Ashok Yadav, aged about 47 years (Male), Son of Sadanand Yadav, resident of Village Hatgachhi, Deori, Purnea, Tolikola, Purnea, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Sinha, Advocate.

For the Respondent/s : Mr. Ramadhar Singh, GP-25.

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

12 24-02-2025

Re. I. A. No. 02 of 2025

For the reasons mentioned in the Interlocutory
Application No. 02 of 2025, the same is allowed.

2. Registry is directed to make necessary changes in
the cause title accordingly.



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3. Heard learned counsel for the parties.

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

(i) For setting aside the order contained in Memo No. Pr.07-VIVIDH-25/2023/507 dated 19.01.2024 whereby and whereunder the Respondent No. 2, The Secretary, Food and Consumer Protection Department, Government of Bihar, Patna has maliciously and arbitrarily rejected the Representation of the Petitioner filed in compliance with the order dated 04.09.2023 passed in CWJC No. 5622 of 2023 passed by this Hon'ble Court, in a hot haste manner ignoring and overlooking the material evidence available on record arbitrarily without application of his judicious mind.

(ii) For quashing the order dated 15.03.2023 in Supply Appeal No. 265/2022 passed (in compliance of the order dated 24.11.2022 passed in CWJC No. 10757/2022 by Respondent No. 3, The Divisional Commissioner, Purnia Division, Purnia whereby and wherein the appeal preferred by Private Respondent No. 6 has been allowed by recalling his earlier order dated 09.07.2000 which was later on affirmed by the department of Food and Civil supply Govt, of Bihar directing the competent Authority to cancel the License so granted to the petitioner, recording the reasons that due to the incomplete application of the petitioner the license issued in favour of the petitioner is not in



accordance with the rules and further ordered to grant the said license in favour of the private Respondent No. 6 which is not sustainable in the eye of law in view of the material evidence, established the application of the petitioner to be complete and being held satisfactory after the due verification, certifying the application to be complete by the competent authority, which is/was available on record.

(iii) To hold and declare that the petitioner is entitled to run the Public Distribution Shop at Amour Block, Panchayat-Bakeniya Baraily, Sub-Division-Baisi, District Purnia on being otherwise eligible fulfilling all the criteria required for selection and had rightly been selected as the Public Distribution Dealer on being at the Serial No. 1 of the merit list which was prepared after due verification by the concerned Respondents.”

5. Learned counsel appearing on behalf of the petitioner has stated that the petitioner has applied for being appointed as a PDS dealer as per the notification dated 17.05.2017. That the authority has initially selected him and, thereafter, on a complaint made by the Respondent No. 8, his selection was set aside. Petitioner has assailed the order dated 15.03.2023 passed by the Divisional Commissioner, Purnea Division, Purnea stating that the petitioner is more competent than the Respondent No. 8 who has passed only intermediate and having basic computer knowledge, whereas the petitioner is



a graduate having advanced diploma in computer applications. Learned counsel has stated that the only ground on which the petitioner has not been selected is that the petitioner has not filled all the columns of the application form more particularly from Clause 3 to 12. Learned counsel has stated that the Divisional Commissioner as well as the other authority have processed several applications which are similarly situated as that of the petitioner and appointed the candidates. That the petitioner should also be given the same treatment. Learned counsel has stated that subsequently the Respondent No. 8 was selected as *Amin* and, therefore, the license issued in favour of the Respondent No. 8 has been cancelled, that the petitioner is having the higher merit and he should be appointed as PDS dealer.

6. Per contra, the learned counsel appearing on behalf of the Respondent-State has stated that the selection of the petitioner was cancelled as he did not fill the application form properly more particularly Clauses 3 to 12 were left blank. Learned counsel has stated that the selection of Respondent No. 8 has been subsequently cancelled as the Respondent No. 8 was selected as *Amin*. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.



7. Learned counsel appearing on behalf of the Respondent No. 8 has stated that the Respondent No. 8 no longer interested in the PDS dealership as he has been selected as *Amin* and he has already surrendered his PDS licence.

8. The I.A. No. 2 of 2025 has been filed by the one Ashok Yadav stating that he is standing 4th in the provisional merit list of candidates selected by the authority and as Respondent No. 8 license has been cancelled, the implead petitioner is having the necessary qualifications to be selected as a PDS dealer. Learned counsel has stated that the right of the implead petitioner has accrued recently after the license of the Respondent No. 8 has been cancelled. Learned counsel has therefore, prayed this Hon'ble Court to allow the implead petition and direct the authorities to issue necessary orders for appointing the implead petitioner as a PDS dealer.

9. Admittedly, as seen from the record, the petitioner has not filled the application form more particularly Clauses 3 to 12, the petitioner has left them blank. Though the counsel for the petitioner has tried to impress upon this Court that similarly situated persons were selected and are functioning as PDS dealers that and the petitioner should be given the same parity. It is to be noted that once the application of the petitioner is found



to be defective due to the reason of non-filling of the required columns, the petitioner's case cannot be considered for selection at all. As a matter of fact, the application of the petitioner cannot be scrutinized further once it is found that the columns which are required to be filled are left blank. Though the application of the petitioner was processed, the fact remains that subsequently the Respondent No. 8 was selected and he has surrendered the PDS dealership as he has been selected as *Amin*.

10. This Court is not inclined to pass any order in favour of the petitioner nor set aside the impugned order. Having regard to the fact that the application of the petitioner itself been found to be defective, the same cannot be cured subsequently. The present writ petition is accordingly **dismissed**. Having regard to the fact that the Respondent No. 8 selection has been set aside/cancelled, it is for the authorities to either issue a fresh notification calling for fresh applications or issue a PDS license in favour of the person who is next in the merit list which has already been prepared. In case the authority come to the conclusion that the next person in the merit list is to be appointed, the authorities shall take necessary steps for verifying as to whether the implead petitioner i.e. Ashok Yadav is having the necessary qualifications and issue orders



accordingly. Otherwise they shall issue a fresh notification for appointment of PDS dealership.

11. With the above directions, the CWJC stands dismissed.

(A. Abhishek Reddy, J)

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