

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3817 of 2023

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Md. Rahmat Ali S/o Abdus Samad Ansari, Resident of Matkopa, Jiyanganj,
Gurhi, Distt. - Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Patna.
2. The Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
3. The Divisional Commissioner, Purnea.
4. The District Magistrate, Purnea.
5. The Sub-Divisional Officer, Sadar, Purnea.
6. The District Supply Officer, Block - Kasba, Purnea.
7. The Block Supply Officer, Block - Kasba, Purnea.
8. Md. Shakir Raza, S/o Md. Jamiluddin, resident of vill.- Jiyanganj, P.S. - Kasba, Distt. - Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Imtiyaz Hussain
For the Respondent/s : Mr. Arvind Ujjwal (Sc 4)

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

Date : 24-03-2025

Heard the learned counsel for the parties.

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

“(i) For issuance of appropriate writ(s) thereby quashing and setting aside the impugned order dated 13.12.2022 as contained in Memo No. 02 dated 02.01.2023 passed by the respondent Divisional Commissioner, Purnea in Supply Revision No. 60/2022 (Md. Skahir Raza vs. the State of Bihar & ors.) whereby the said respondent while allowing the revision filed by the respondent no. 8 has reversed the order dated 15.03.2022 passed by the respondent no. 4 in Supply Appeal Case



No. 188/2019 thereby directing the competent authority to select the respondent no. 8 as PDS dealer for Block- Kasba, Gram Panchayat Gurhi, Distt.-Purnea.

(ii) For consequently issuance of appropriate writ(s) thereby directing the respondents concerned to grant the petitioner PDS dealer license for Gram Panchayat, Gurhi, Block Kasba, Distt.-Purnea as he fulfills all the requisite eligibility for the same which is required under Clause 9 of the Bihar Targeted Public Distribution System (Control) Order, 2016.

(iii) For grant of any other relief (s) which the petitioner may be entitled to in the facts and circumstances of the case.”

3. It is the case of the petitioner that he has applied for the PDS dealership and at that relevant point of time, the petitioner has passed Fauquania examination in the year 2009 with first division from Bihar State, Madarsa, Education Board, Patna and he has also passed Maulvi examination in the year 2012 with second division from the Bihar State Madarsa Education Board, Patna. The petitioner thereafter has completed one year advanced diploma in computer application. However, the authorities have selected the respondent No. 8 who did not possess any computer knowledge and further the respondent No. 8 had submitted his computer certificate subsequently after one year. That the authorities prepared a provisional list after due enquiry in which the petitioner was shown at Serial No. 18 and possessing the computer knowledge whereas as against the respondent No. 8, the computer knowledge certificate was missing. That the respondent



No. 8 was appointed as a PDS dealer even though he did not possess the requisite qualification. That the petitioner aggrieved by the selection of the respondent No. 8 though initially has preferred a CWJC before this Hon'ble Court subsequently, preferred an appeal as directed by this Court. The appeal filed by the petitioner was numbered as Supply Appeal No. 188 of 2019 before the respondent No. 4 herein and the respondent No. 4 vide order dated 15.03.2022 has allowed the appeal filed by the petitioner and cancelled the PDS license issued in favour of the respondent No. 8. That the respondent No. 8 aggrieved by the order passed by the appellate authority has preferred Supply Revision No. 60 of 2022 before the Divisional Commissioner i.e. respondent No. 3 herein. The revisional authority without verifying the record and misconstruing the provisions of the Rule 9(v) of Bihar Targeted Public Distribution System (Control) Order, 2016 has allowed the revision and set aside the order under appeal and restored the license of the respondent No. 8.

4. Learned counsel appearing on behalf of the petitioner has vehemently argued that the order passed by the revisional authority is liable to be set aside on the sole ground that the respondent No. 8 did not have the requisite computer knowledge as on the date of application and that the certificate produced by



the respondent No. 8 subsequently after period of one year cannot be taken into consideration. Learned counsel for the petitioner has therefore, prayed this Hon'ble Court to set aside the impugned order passed by the Divisional Commissioner. Learned counsel has further stated that the order passed by the Divisional Commissioner is also liable to be set aside on the ground that the same is contrary to the Rule 9(v) of Bihar Targeted Public Distribution System (Control) Order, 2016. Learned counsel has therefore, prayed for allowing the present writ petition and cancel the PDS license issued in favour of the respondent No. 8.

5. *Per contra*, the learned counsel appearing on behalf of the respondent-State as well as the respondent No. 8 have vehemently opposed the very maintainability of the present writ petition. Learned counsel for the respondent No. 8 has stated that the respondent No. 8 was having the requisite qualifications and his appointment was perfectly in consonance with the provisions of the (Control) Order, 2016, more specifically, Rule 9(v). Learned counsel has stated that the order passed by the Divisional Commissioner does not suffer from any infirmity or illegality and the writ petition filed by the petitioner is liable to be dismissed. Learned counsel has further stated that the respondent No. 8 has passed Fauquania examination in the year 1994 and Maulvi



examination in the year 2007 and was also having computer knowledge.

6. In order to resolve the issue involved in the present writ petition, this Court has called for the original file pertaining the selection of the respondent No. 8 and perused the applications made by both the petitioner as well as the respondent No. 8. A perusal of the application made by the petitioner reveals that he was having the requisite qualifications and in his application. As against column No. 1(छ) as against the "कंप्यूटर ज्ञान" (computer knowledge), the petitioner has stated "yes" and enclosed the requisite certificates. The check list of the petitioner also reveals that as on the date of his application he was having the computer knowledge and had enclosed the certificates. However, in the application made by the respondent No. 8 as against the column No. 1(छ) i.e., "कंप्यूटर ज्ञान", the respondent No. 8 has not filled up the column and left it blank. Though the learned counsel for the respondent No. 8 has relied on the check list prepared at the time of application to contend that the respondent No. 8 was having the computer knowledge, a perusal of the check list reveals that there is interpolation in the column No. 6 at "कंप्यूटर का ज्ञान है या नहीं" initially the word "Yes" has been struck off and "No" has been written. Though the learned counsel has stated that somebody has



tried to manipulate his check list. A perusal of the same reveals that the ink which has been used is different from the rest of the page. Therefore, the respondent No. 8 cannot take advantage of the same as in the application made by the respondent No. 8 as against the computer knowledge he has left it blank. Further, the respondent No. 8 has relied on another check list purported to have been made on 31.05.2017 but perusal of the same reveals that ink on the said check list is different from the one prepared by the authorities earlier when compared to the other documents prepared on the very same day, the ink is new and in a different hand writing therefore, the same also cannot be take into consideration.

7. Having regard to the above mentioned facts and circumstances, the reasons given by the Divisional Commissioner in setting aside the order of the appellate authority and restoring the license of the respondent No. 8 cannot be countenanced in view of the provisions of the (Control) Order, 2016, more specifically Rule 9(v) which reads as under;

“9. The following facts shall be considered in allotting a fair price shop by the Selection Committee.

(i)

(ii)

(iii)

(iv)

(v) The applicant of a fair price shop's license must be matric pass and an adult;

Provided that the applicant having computer knowledge shall be given priority. In case of equality in computer knowledge, the applicant having highest qualification and in case of equality in



highest qualification also the applicant of older age shall be given priority.”

8. The Rule is very clear that a person who has passed a matriculation and having computer knowledge should be preferred and in case of a person having a higher qualification, the person having a higher qualification should be selected and in case the educational qualifications are same then the age should be taken into consideration. In this particular case, both the petitioner as well as respondent No. 8 are having equal qualification but insofar as the respondent No. 8 is concerned, he does not have the requisite computer knowledge as on the date of his filing the application. The application made by the petitioner reveals that as against column 1(ख) he has left blank and does not reveal that he has enclosed the copy of the computer certificate obtained by him.

9. Having regard to above mentioned facts and circumstances of the case, the order passed by the Divisional Commissioner, Purnea dated 13.12.2022 is set aside and the order passed by the appellate authority in Supply Appeal No. 188/2019 dated 15.03.2022 is restored. The authorities are directed to issue the license in favour of the petitioner as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order. The original file which produced by the government pleader is being returned.



10. With the above direction, the present writ petition stands allowed to the extent indicated above.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	27.03.2025.
Transmission Date	NA

