

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6274 of 2024

Sehra Khatoon Wife of Mojahid Ansari @ Mojahiddin Ansari, Resident of Village- Mathbal Govind, Ward No.8, P.O.- Saraiya, P.S.- Sahebganj, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary. Department of Food and Consumer Protection. Government of Bihar, Patna.
2. The Divisional Commissioner, Tirhut Division. Muzaffarpur.
3. The District Magistrate-cum-Chairman, District Level Selection Committee, Muzaffarpur.
4. The District Supply Officer-cum-Secretary, District Level Selection Committee, Muzaffarpur, District- Muzaffarpur
5. The Sub-Divisional Officer, Muzaffarpur West, Muzaffarpur.
6. The Block Supply Officer, Sahebganj, District- Muzaffarpur.
7. Poonam Kumari, Wife of Sri Rajesh Sah, Resident of Village and P.O.- Saraiya, P.S.- Sahebganj, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Pandey
For the Respondent/s : Mr.Addl. Advocate General (4)

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

12 19-08-2025 Heard the learned counsel for the parties.

2. The present writ petition has been filed challenging the order of Divisional Commissioner, Tirhut Division, Muzaffarpur dated 08.08.2023.

3. It is the case of the petitioner that pursuant to the advertisement dated 20.12.2017, the petitioner has applied for grant of PDS license.

4. Learned counsel for the petitioner has stated that the petitioner was having the inter-mediate qualification and she had completed her computer course between the month of January, 2017 and December, 2017 and her date of birth is



15.08.1997. Learned counsel has further stated that the authorities without taking into consideration that the petitioner was having the computer knowledge as on the date of application and only on the ground that the certificate of completion of the course was dated 10.02.2018 has granted the PDS license in favour of the respondent No. 7 herein. That the Respondent No. 7 admittedly did not have the requisite computer knowledge as on the date of filing the application. Learned counsel has stated that the computer certificate issued in favour of the respondent No. 7 is dated 05.07.2018 and the respondent No. 7 has completed the course only on 10.03.2018. That the Divisional Commissioner by misconstruing the provisions of the Control Order, 2016 has wrongly held that the respondent No. 7 being older than the petitioner is entitled to be appointed as a PDS dealer. Learned counsel has stated that the provisions of the Control Order are clear and unambiguous and any person who has passed the matric and having computer knowledge should be given preference and if the knowledge in the computer is equal then only preference should be given to the person who is older. However, in this case, the respondent No. 7 did not have any computer knowledge as on the date of making the application i.e., 15.01.2018. Learned counsel has



therefore, prayed this Hon'ble Court to set aside the impugned order and allow the present writ petition.

5. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the respondent No. 7 is having the requisite qualifications and the Divisional Commissioner duly taking into consideration the fact that the petitioner did not produce the required certificate of having any computer knowledge has rightly granted the PDS license in favour of the respondent No. 7 as she is older in age. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order.

6. In order to resolve the issue involved in the present writ petition, it is necessary to extract the relevant provisions of the Control Order, 2016 more specifically, Clause 9(v) of the Control Order, 2016 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.”

7. A perusal of the above clause makes it abundantly clear that in order to be appointed as a PDS dealer, the person should have minimum of matric pass and person who is having computer knowledge should be given preference. If the qualifications in the computer knowledge is equal then the person who is older in age should be appointed as a PDS dealer. However, in this case, the authority on the premise that the petitioner did not have the requisite qualification as she has produced the certificate of completion only on 10.02.2018 has straightaway appointed the respondent No. 7 as a PDS dealer solely on the ground that she is older in age. This analogy of the Divisional Commissioner is totally perverse and against the provisions of the (Control) Order, 2016.

8. Admittedly, in this case both the petitioner as well as the respondent No. 7 did not produce any proof of having the computer knowledge as on the date of last date of application i.e., 15.01.2018. However, it is to be noted that the petitioner has already completed the computer certificate programme by December, 2017 itself and obtained the certificate on 10.02.2018 however, the respondent No. 7 by her own admission has completed the computer course only on



10.03.2018 and produced the certificate dated 15.07.2018. The contention of the learned counsel appearing on behalf of the respondent No. 7 that the petitioner did not have the requisite computer qualifications as on the last date of making application is not correct. The fact remains that the petitioner had completed her course by December, 2017, merely because the completion certificate is dated 10.02.2018, it cannot be said that the petitioner did not have the requisite qualification as on the last date of submission of the application.

9. Having regard to the above mentioned facts and circumstances of the case, the impugned order dated 08.08.2023. is set aside. The present writ petition is accordingly, allowed. The respondent authority is directed to issue a PDS 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.

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

(A. Abhishek Reddy, J)

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