

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5311 of 2024

Madhuri Kumari @ Madhuri Devi, W/O- Sri Sanjay Sah, R/O- village- ward
no. 05, Raghopur, P.S-Meenapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar Through Additional Chief Secretary Food and civil supply Government of Bihar, Patna.
2. The Additional Chief Secretary Food and civil supply, Government of Bihar, Patna.
3. The Divisional commissioner, Tirhut, Muzaffarpur, Bihar.
4. The District Magistrate-cum-chairman District level selection committee, Muzaffarpur.
5. The Sub-Divisional-Officer, East Muzaffarpur, District- Muzaffarpur.
6. The Block Supply officer, Katra, District- Muzaffarpur.
7. Babita Devi, W/O- Ajay Kumar, R/O-village-Methnapur, P.S- Meenapur, District- Muzaffarpur
8. Smt. Meena Devi, W/o Sanjay Kumar, R/o Village-Methnapur, P.S. Meenapur, District-Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Alok Ranjan, Adv.
For the Respondent/s : Mr. Additional Advocate General (7)

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

10 11-02-2025

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following

relief(s):-

*“i) For quashing of the order dated
12.02.2024 passed by learned Divisional
Commissioner, Trihut Division, Muzaffarpur*



whereby and where under the learned Divisional Commissioner has been affirmed the order of selection of respondent no. 7, which has been declared as non-existence for all practical purpose by the Hon'ble Court and also very erroneously held that petitioner is not entitled for PDS shop license, completely ignoring the fact that the petitioner had successfully run the PDS shop allotted to the petitioner, for 3 years and without following any statutory provisions of the Bihar Targeted Public Distribution Control (order) 2016 and completely ignoring the fact that there was no any complaint made from any beneficiaries in operation of PDS shop by the petitioner.

ii.) For directing and commanding the respondent authorities for restoration of Public Distribution shop license no. 23-09-08/2020 and supply to the petitioner, which was granted in favor of the petitioner, after following due selection process and pursuant to recommendation made by District level selection committee, in its meeting dated 30.11.2019, duly headed by the then District Magistrate, Muzaffarpur.

iii). For upholding and declaring that the decision taken by the District level selection committee in its meeting dated 30.11.2019, whereby and where under recommendation was made for grant of PDS shop license in favor of the petitioner, for Panchayat- Raghapur, under Extremely backward category, female to be



valid, the same does suffer from any illegality.

iv.) For directing and commanding the respondent authorities not to disturb the PDS shop license of the petitioner on nonest grounds, after restoration of PDS shop license of the petitioner.”

3. The brief facts of the case for the purpose of deciding the issue involved are as follows:

4. It is a case of the petitioner that the Respondent No. 7 was wrongly selected by the District Selection Committee and inspite of the objection/ complaint made by the petitioner, the authorities have not taken any action.

5. Learned counsel has stated that the petitioner has earlier approached this Hon’ble Court by way of C.W.J.C. No. 5612 of 2022. That this Court vide order dated 22.09.2022 has directed the petitioner to approach the Divisional Commissioner against the selection of the Respondent No. 7 herein. Thereafter, the petitioner has approached the Divisional Commissioner who vide order dated 16.02.2023 (Annexure-P7) has dismissed the case of the petitioner herein. Thereafter, the petitioner was again constrained to approach this Hon’ble Court by way of C.W.J.C. No. 5154 of 2023. This Court vide order dated 10.01.2024 while setting aside the order of the Divisional Commissioner in Case



No. 244 of 2022 dated 16.02.2023 has remanded the matter back to the authority concerned for passing order afresh. Thereafter, the Divisional Commissioner has passed the impugned order on 12.02.2024 in Case No. 12 of 2024. Learned counsel has stated that the impugned order is liable to set aside on the following grounds: (1) that the 7th respondent, sister-in-law was having a fair price shop but the same was not taken into consideration by the authority concerned. (2) that the Respondent No. 7 is only a matriculate whereas the petitioner has completed intermediate but the same was not taken into consideration by the authority concerned. Learned counsel has stated that the authority has passed the impugned order in a mechanical manner without any application of mind and the same is contrary to the provisions of the Control Order, 2016, more particularly, Clause 11. Learned counsel has, therefore, prayed this Hon'ble Court to allow the present writ petition and set aside the impugned order.

6. Per contra, the learned counsel appearing on behalf of the respondent State, as well as the Respondent No. 7 have vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the writ petition is liable to be dismissed on the sole ground that though the



petitioner was claiming that she is having higher qualification of intermediate, the same is from an unrecognized board and not recognized by the State of Bihar. Further, it is stated that the Respondent No. 7 is more meritorious than the petitioner as she is a graduate. That even if the contention of the petitioner that her intermediate certificate is valid then also the Respondent No. 7 is having more qualification i.e., graduation which is higher than the intermediate. Further, it is stated that though the petitioner is trying to portray that the selection of the Respondent No. 7 is against the provisions of Clause- 11 of the Bihar Targeted PDS (Control) Order, 2016, the same is not true. The so called sister-in-law of the petitioner is the wife of the cousin brother of her husband and they do not belong to the same joint family. Therefore, the question of application of provisions of Clause 11 does not arise. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition. In order to resolve the issue involved in the present writ petition, it is necessary to extract the provisions of Clause 11 which reads as under:

“(i) No fair price shop license shall be granted to more than one member in a joint family. Father, mother, brother, brother's wife, husband, wife, son, son's wife and step brother shall come in the definition of the family



(ii) A mukhia, a sarpanch, a panch, a ward member, a member of a panchayat samiti, a member of a district board, an MLA, a Member of Legislative Council, a member of Parliament, and an elected member of municipal bodies shall not be eligible for allotment of a fair price shop during his tenure as such capacity.

(iii) An owner of a flour mill and his near relatives shall not be allotted a fair price shop.

(iv) A minor or a lunatic or an insolvent shall not be allotted a fair price shop.

(v) A person finally convicted by the court under the Essential Commodities Act, 1955 or in any other criminal case shall not be allotted a fair price shop.

(vi) A person holding a post of profit in the Government shall not be allotted a fair price shop.”

7. The above provision clearly mandate that in case a person belonging to the same joint family has another shop or is a mukhia, a sarpanch, a panch, a ward member, a member of a panchayat samiti, a member of a district board, an MLA, a Member of Legislative Council, a member of Parliament, and an elected member of municipal bodies then the question of allotting the PDS dealership to the applicant does not arise.

8. In this particular case the authorities have dealt thoroughly examined the matter and came to the conclusion that the husband of the petitioner, namely, Ajay Kumar is having a



cousin brother by the name of Mr. Sanjay Kumar and his wife, namely, Mrs. Meena Devi is having a PDS dealership. Therefore the contention of the petitioner that a family member of the petitioner is having a PDS dealership is factually incorrect. Further, it is to be noted in the counter affidavits of both the respondent State as well as the Respondent No. 7, they have categorically stated that the Respondent No. 7 is having a graduate degree and the same is not denied by the petitioner by way of any reply to the counter affidavit.

9. Further, the fact that the petitioner has passed the intermediate from Jharkhand State Open School has not been denied by the petitioner. Admittedly, the said intermediate degree is not recognized by the State government and the same has not been rebutted by the petitioner. Learned counsel for the petitioner has not placed on record any document to show that the intermediate certificate obtained from Jharkhand State Open School is recognized by the State of Bihar.

10. Having regard to the above mentioned facts and circumstances, this Court does not find any merit in the present writ petition which warrants any interference by this Hon'ble court and the same is liable to be dismissed.

11. Accordingly, the present writ petition stands



dismissed.

(A. Abhishek Reddy , J)

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