

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13491 of 2024**

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Gulafsha Praveen @ Gulafsha Parveen, W/o Afroj Alam @ Md. Afroj,  
Resident of Village- Laxminiya, Ward No. 06, Jhitkiya, P.S.- Ghailardh,  
District- Mahdepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Divisional Commissioner, Kosi Division, Saharsa.
3. The Collector-cum-District Magistrate, Madhepura.
4. The District Supply Officer, Madhepura.
5. The Sub-Divisional Officer-cum-Licensing Authority, Udakishunganj, District- Madhepura.
6. Ansu Bharti, W/o Arun Kumar, Resident of Village- Jhitkiya, P.S.- Ghailardh, District- Madhepura.
7. Meena Praveen W/o Md. Chand Alam Gram - Lachmaniya, P.O. and P.S. - Dhauladh, District- Madhepura.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. N. K. Agrawal, Sr. Adv.<br>Mr. Kumar Rajdep, Adv.<br>Mr. Dhananjay Nath Tiwri, Adv. |
| For the Respondent/s | : | Mr. Arvind Ujjawaj, Standing Counsel (4)<br>Mr. Ulpendra Pratap Singh, AC to SC 4       |

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

7      19-06-2025                      Heard learned counsel for the parties.

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

*“(i) For issuance of appropriate writ/writs,  
order/orders, direction in the nature of  
certiorari for quashing the order dated  
20.07.2024 passed in Supply Revision Case No.  
39/2024 passed by the Learned Divisional  
Commissioner, Koshi Division, Saharsa,*



*whereby and where under he has set aside the selection of the petitioner as PDS dealer who was running the PDS shop since last about 6 years and directed to select the Respondent No. 6 (Ansu Bharti) as PDS dealer in place of petitioner.*

*(ii) Further for issuance of appropriate writ/order/direction to the concerned authority for Restoration of PDS license of the petitioner being License No. 122/2018 granted by the Licensing authority on 25.10.2018.*

*(iii) Further for the any other relief/s for which the petitioner is found to be entitled in the facts and circumstances of the case as well as in the eye of law.”*

3. Learned Senior counsel appearing on behalf of the petitioner has stated that as against the Respondent No. 6, the petitioner has no grievance and therefore, he is not seeking any relief against the said Respondent No. 6. That in so far as the Respondent No. 7 is concerned, learned counsel has stated that both the petitioner as well as the Respondent No.7 are having equal qualification of intermediate, However in the form filled up by both the petitioner as well as the Respondent No. 7, the column for computer knowledge is kept blank. The date of birth of the petitioner is 09.01.1996 and the date of birth of the Respondent No. 7 is 18.01.1996. Learned counsel has stated that



when the petitioner as well as the Respondent No. 7 are on equal footing, the authority ought to have taken the date of birth as a criteria for selecting the PDS dealer, but the Divisional Commissioner vide impugned order dated 20.07.2024 has not considered the same and issued the license in favour of the Respondent No. 7. Learned counsel has stated that the Respondent No. 2, i.e, the Divisional Commissioner while passing the impugned order has not taken into consideration the provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016, more specifically, Rule 9(v) of the said order. Learned counsel has therefore prayed this Hon'ble Court to set aside the impugned order in so far as the Respondent No. 7 is concerned and remand the matter back to the authority concerned for passing the orders afresh duly taking into consideration the provisions of Bihar Targeted Public Distribution System (Control) Order, 2016, more specifically, Rule 9.

4. Learned counsel appearing on behalf of the Respondent No. 7 has vehemently opposed the very maintainability of the writ petition and stated that the Respondent No. 7 is having more marks in intermediate than that of the petitioner. Learned counsel has stated that the



Respondent No. 7 is having 68.2% marks whereas the petitioner is having only 52.2% marks and therefore the order passed by the learned Divisional Commissioner is perfectly in consonance with the provisions of the Act. Learned counsel has fairly stated that both the petitioner as well as the Respondent No. 7 have left the column for computer knowledge blank but subsequently they have filed the necessary documents to substantiate their claim that they are having computer knowledge.

5. In order to resolve the issue between the parties, it is necessary to extract the relevant provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016 more particularly Rule 9(v), which reads as under:-

*“9 (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.”*

6. A perusal of Rule 9(v) of the Bihar Targeted Public Distribution System (Control) Order, 2016 reveals that in order to be appointed as PDS dealer, the candidate should



have the necessary qualification, (1) the applicant should be matric pass, (2) preference should be given to the person having computer knowledge and in case of equality in the computer knowledge, the person having highest qualification and in case of equality of the highest qualification, then the age of the person should be taken into consideration and the older person should be appointed. Admittedly in this case both the petitioner as well as the Respondent No. 7 are having matric pass but in so far as the computer knowledge is concerned, both have kept the column for computer knowledge blank. Therefore, the next criteria that has to be seen, is who is older person among the applicants. Admittedly in this case both the petitioner as well as the Respondent No. 7 are having equal qualification, i.e., intermediate. A Division Bench of this Hon'ble Court has held that the higher qualification in Rule 9(v) pertains to the computer knowledge and not to any other degree, therefore, the only criteria that the Divisional Commissioner ought to have taken into consideration was as to whether who is the older person amongst the petitioner and the Respondent No. 7, which was not done in this case.

7. Having regard to the above, the impugned order dated 20.07.2024 passed by the Divisional Commissioner is set



aside. The matter is remanded back to the Divisional Commissioner (Respondent No. 2) for passing orders afresh duly putting the petitioner as well as the Respondent No. 7 on notice and granting them an opportunity of hearing. The authority shall duly take into consideration the provisions of Rule 9(v) of the Bihar Targeted Public Distribution System (Control) Order, 2016 while passing the order. The entire exercise shall be completed as expeditiously as possible preferably within a period of six weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.

8. It is also made clear that the license which is issued in favour of the Respondent No. 6 shall not be disturbed and the Respondent No. 6 shall be allowed to continue as PDS dealer.

9. With the above directions, the present writ petition stands disposed of.

**(A. Abhishek Reddy , J)**

Bhardwaj/-

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