

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16075 of 2023

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Jamil Akhtar S/o- Mojamil Alam, Resident of Village- Bela Jitpur, P.S.- Jitna,
Post-Chanri, District- East Champaran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate, East Champaran, Motihari.
4. The District Level Committee, through its Chairman the District Magistrate, East Champaran, Motihari.
5. The Sub Divisional Officer, Sikrahna (Dhaka), East Champaran.
6. Bachu Ansari, S/o- Late Nevazi Ansari, R/o Village Jolgotwa, P.S.- Jitna, District East Champaran, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Preety Kunwar, Advocate.
For the Respondent/s : Mr. S. Raza Ahmad (AAG 5).
For the Respondent No.6: Mr. Rajesh Ranjan, Advocate.

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

5 22-03-2025 The present writ petition is squarely covered by the order of this Court dated 09.12.2024 passed in CWJC No. 3017 of 2024, under the similar circumstances, this Court has held that as under:-

“6. A perusal of the Rule 9(v) of the Bihar Targeted Public Distribution System (Control) Order, 2016 clearly demonstrates that the minimum qualification for being eligible to be appointed as a PDS dealer in that the person should be a matric pass and preferably have computer knowledge.



That in case the persons are having equal qualification that the person who is having the higher qualification should be preferred and in case there is tie in the educational qualification, then the person who is older should be appointed. Rule 9(v) does not in any manner contemplate looking at the percentage of marks if the qualification is same between two candidates or more, therefore, the contention of the petitioner that the petitioner is having more marks in intermediate does not hold any water and the same is rejected. Accordingly, the present writ petition stands dismissed, however, without any costs.”

2. In this particular case also the petitioner is contending that he is having higher marks in the graduation than the Respondent No. 6. Though Rule 9(v) contemplates about equal qualification the same does not in any manner speaks about higher percentage of marks obtained by the applicants. The reliance of the petitioner on the memo dated 02.11.2018 (Annexure P/2) issued by the authorities clarifying that higher percentage of marks should be looked into is without any legal basis. The said memo is contrary to the Rule 9(v) of the Bihar Targeted Public Distribution System (Control) Order, 2016. The Executive Order cannot override the Rules which are statutory in nature.

3. Having regard to the same, this Court does not find



any merit in the present case and the same is dismissed accordingly.

(A. Abhishek Reddy, J)

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