

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16599 of 2024

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Pinku Sah (Female aged about 34 years) Wife of Manoj Kumar Ranjan
Resident of Village-Masankhon, P.S.-Kusashwar Asthan, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Food and Consumer Protection Government of Bihar, Patna.
2. The Principal Secretary, Depart of Food and Consumer Protection, Government of Bihar, Patna.
3. The District Magistrate, Darbhanga Cum President District Selection Committee, Darbhanga.
4. The District Supply Officer, Darbhanga Cum Secretary District Selection Committee, Darbhanga.
5. The Sub Divisional Officer, Biraul, Darbhanga.
6. The Sub Divisional Officer, Sadar, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Senior Advocate with
Mr. Diwakar Prasad Singh, Advocate.
Mr. Kumar Rajdeep, Advocate.

For the Respondent/s : Ms. Binita Singh, SC-28.

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

7 23-06-2025 Heard learned counsel for the parties.

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

*“That by this writ application
challenge is made to the action of
respondent committing grave injustice
with the petitioner by not giving the
petitioner P.D.S. License who is otherwise
entitled to be selected in 2017 whereas
the respondent selected illegal candidate
namely Madhuri Kumari selected on the*



*basis of Bribe Since forged Graduation certificate allegedly supplied by co-applicant namely Madhuri Kumari was made basis of her selection who had stated that she is Graduate but inadvertently recorded her qualification as Intermediate & this submission was accepted on the basis of Bribe. The petitioner was impression that Madhuri Kumari holds higher qualification than the petitioner as such remain silent however another co-applicant namely Juvaida Khatoon challenged the illegal selection of Madhuri Kumari and during the course of pendency of writ petition co-applicant Juvaida Khatoon obtained Graduation Certificate of successful candidate namely Madhuri Kumari who was declared fail in Bachelor examination as such it is apparent that the respondent selected co-applicant namely Madhuri Kumari on the basis of forged graduation certificate by which Madhuri Kumari was declared superior than the petitioner as such the hon'ble High Court by order dated 02/05/2024 passed in C.W.J.C.No.12159 of 2018 & canceled the selection of Madhuri Kumari Quoting following:- **Quote-***

“Therefore, this Hon'ble court is of the considered view that it is a fit case to quash the minutes of the meeting dated 01/09/2017. Further the respondent authority shall consider the applications of the candidates on merits and shall pass appropriate orders in issuing the license.

***Unquote-** Therefore it is apparent that this Hon'ble court directed the respondent authority to consider the*



application of the candidate(s) on merit and the respondent was directed to pass appropriate order issuing license as such the respondent ought to have selected the petitioner in view of the finding recorded in Minute of proceeding dated 26/06/2024 in which superiority of the petitioner amongst applicants was declared but under influence of departed candidate namely Madhuri Kumari the respondent directed fresh selection which is against the interest of the petitioner who is otherwise most suitable amongst the candidates as such the petitioner prays for issuance of following main reliefs.

(i) That for issuance of appropriate writ, order or direction commanding the respondent to issue PDS license to the petitioner in view of findings recorded by District Magistrate, Darbhanga in a meeting of District selection committee under the chairmanship of District Officer as recorded in Minutes of proceeding dated 26/06/2024 by which it is recorded that writ petitioner Juvaida Khatoon has got 61.33% in intermediate examination whereas petitioner has got 69.40% marks in intermediate examination besides higher computer education degree as such the petitioner was at serial no 2 in merit list dated 05/08/2017 as such direction is required to be given to the respondent to issue PDS license to the petitioner.

(ii) That for issuance of appropriate writ, order or direction commanding the respondent to select the suitable candidate amongst the applicants



applied against the vacancy published in 2017 instead fresh application from fresh candidates who had not applied against the vacancy published in 2017.

(iii) That for issuance of appropriate writ, order or direction commanding the respondent to act fair and impartial manner instead issuing fresh vacancy at the instance of departed candidate namely Madhuri Kumari whose husband happens to be JDU leader as such decision for fresh vacancy was taken in order to please departed candidate who was selected on the basis of forged certificate.

(iv) That for issuance of appropriate writ, order or direction by way of declaration that the petitioner is superior candidate for selection since holding 69.40% marks in intermediate examination besides DCA degree as such direction is required to be given to respondent to select the petitioner for PDS dealership under Block Kuseshwar Asthan under District Darbhanga.”

3. It is the case of the petitioner that in the earlier round of litigation, the coordinate Bench of this Hon’ble Court vide order dated 02.05.2024 passed in CWJC No. 12159 of 2018 has set aside the selection of the Respondent No. 7 therein and remanded the matter back to the authority concerned for preparing a fresh merit-list and pass necessary orders for appointment of a PDS Dealer.

4. Learned counsel appearing on behalf of the



petitioner has stated that the authority instead of abiding by the order of this Hon'ble Court has passed the impugned order dated 26.06.2024 (Annexure P/11) whereby a decision has been taken by the authority to issue fresh advertisement for appointment of a PDS dealer. Learned counsel has stated that absolutely no reason has been given by the authority concerned while passing the impugned order. Learned counsel has drawn the attention of this Court to the merit-list dated 26.06.2024 prepared by the authority wherein the petitioner has been shown at Serial No. 2 along with the other eligible candidates. Learned counsel for the petitioner has stated that the petitioner is seeking a direction to see that the order of this Hon'ble Court passed in the earlier round of litigation is implemented in true letter and spirit. Learned counsel for the petitioner has, therefore, prayed this Hon'ble Court to allow the present writ petition.

5. Per contra, the learned counsel appearing on behalf of the Respondent-State has vehemently opposed very maintainability of the present writ petition. Learned counsel has stated that the authority duly taking into consideration the order passed by this Hon'ble Court and finding that no suitable person was available has passed the impugned order. Learned counsel has stated that the petitioner may participate in the selection



process, if any fresh advertisement is given and no prejudice will be caused to the petitioner by issuance of the fresh advertisement.

6. The Coordinate Bench of this Hon'ble Court vide order dated 02.05.2024 passed in CWJC No. 12159 of 2018 has held as under:-

“14. Perused the records. Considered the rival submissions of the parties. This Court is of the considered view that the respondent authority, prior to issuing the license should have scrutinized the documents of each of the parties to consider who are eligible for the appointment of PDS dealer. This Court initially finds fault with the authority for not scrutinizing the documents prior to appointing the PDS dealer i.e. the Respondent No. 7. In the present case, the respondent-authorities have sought for the documents only after the complaint preferred by the petitioner before the S.D.O. The counter affidavit of Respondent Nos. 3 to 5 disclose that many notices were issued to Respondent No. 7, but Respondent No. 7 could not produce the documents to prove that she has higher qualification than that of the petitioner. The only reason stated by the Respondent No. 7 is that she lost the documents in the flood, but no date or year is mentioned regarding when the flood has occurred. This Court is not in a position to appreciate whether the flood occurred prior to 2018 or subsequent to



*2018 so as to consider that the documents of the Respondent No. 7 were lost. Furthermore, it is the contention of the Learned counsel for the respondent no. 7 that two months time may be granted to produce all the documents. When the original documents were said to be lost, the question of filing the documents after two months cannot be considered at this juncture. **Therefore, this Court is of the considered view that it is a fit case to quash the Minutes of the meeting dated 01.09.2017. Further the respondent authority shall consider the applications of the candidates on merits and shall pass appropriate orders in issuing the license.***

7. Pursuant to the above order, the authorities have prepared a merit-list which is filed as Annexure P/10 dated 26.06.2024 in which the total of seven candidates have been shortlisted. However, instead of selecting the most meritorious candidate, the authority have issued the impugned letter dated 26.06.2024 whereby a decision was taken to re-advertise the PDS dealership. Even in the counter affidavit filed by the respondents, there is no whisper as to why the authorities have taken a decision to issue a fresh tender when a fresh merit-list as directed by the coordinated Bench of this Hon'ble Court has already been prepared by them. The authorities ought to have selected one of the eligible candidates who is more meritorious



from amongst the shortlisted ones, but instead of doing so, they have take a decision to issue a fresh advertisement for appointment of the PDS Dealer. There is absolutely no reason forthcoming as to why the said decision has been taken.

8. Having regard to the earlier order passed by the coordinate Bench of this Hon'ble Court dated 02.05.2024 in CWJC No. 12159 of 2018, this Court is of the opinion that the impugned order dated 26.06.2024 has to be set aside. The respondents are directed to select a suitable candidate from amongst the seven shortlisted ones purely on the basis of merit-list dated 26.06.2024. The entire exercise shall be completed as expeditiously as possible preferably within a period of four weeks from the date of receipt of the copy of this order.

9. With the above directions, the present Writ Petition stands disposed of.

(A. Abhishek Reddy, J)

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