

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1837 of 2022

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Anju Kumari Wife of Shri Lal Babu Prasad, Resident of Village-Chhati, P.S.
Dhanarva, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Patna.
3. The Additional Collector (Supply), Patna.
4. The Sub-Division Officer-cum-Licensing Authority, Masaurhi, District-Patna.
5. The Assistant Divisional Supply Officer, Masaurhi, District-Patna.
6. The Block Supply Officer, Dhanarva, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Choudhary, Senior Advocate Mr. Bhola Kumar, Advocate
For the Respondent/s	:	Mr. Anisul Haque, AC to AAG5

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 06-04-2022

Heard Mr. Ashok Kumar Choudhary, learned
Senior Advocate for the petitioner and Mr. Anisul Haque
for the State.

2. The petitioner was adjudged the most suitable
candidate for being granted licence for one of the vacant
shops for which advertisement had been issued.



3. The petitioner appears to have been recommended but because of her father-in-law being another PDS licensee, licence was not issued to her in view of the proscription provided under Rule 11(i) of the Bihar Targeted Public Distribution System (Control) Order, 2016. The aforesaid order was passed in 2017.

4. The petitioner challenged the aforesaid order before this Court taking the plea that as on date, the father-in-law of the petitioner was not alive and, therefore, the dis-entitlement under 11(i) would not be applicable to her.

5. Taking this ground into consideration, a Bench of this Court set aside the decision and remitted the matter to the licensing authority to take a fresh decision in the matter.

6. Pursuant to the aforesaid direction, again the licensing authority has held that at the time when decision was initially taken for grant of licence, the petitioner was not entitled to be granted licence for the reason of her



father-in-law being a PDS licensee. Notwithstanding the fact that now the aforesaid licensee in the family of the petitioner is dead and there is no other licensee in the family of the petitioner, but since the entire process had begun in the year 2017 and was concluded, the recommendation in that process of selection does not remain valid and it would only be appropriate that the vacant position be re-advertised in order to attract more suitable candidates.

7. Mr. Choudhary, learned Senior Advocate has submitted that the authority has gone wrong in taking this plea when the remand by this Court was limited to the extent that the case of the petitioner be considered in the light of the fact that as on date there is no other licensee available in the family of the petitioner.

8. True it is that the matter was remanded to the licensing authority, but we are inclined to accept the reasoning given by the licensing authority in not granting licence to the petitioner at this stage when the selection



process under the advertisement of 2017 is over and the petitioner remains the only person claiming the licence for the 20th shop which remains vacant till date.

9. The learned Senior Advocate for the petitioner has further raised a grievance that such order has been passed by the licensing authority which is in breach of the requirement under the Control Order of 2016. He submits that the recommendation is made by a body consisting of many members including of the licensing authority and, therefore, the impugned order cannot be sustained as it has been passed by one of such members.

10. The aforesaid argument is absolutely unacceptable for the reason that under Regulation 5, the district level selection committee makes a recommendation. The committee comprises District Magistrate, Additional District Magistrate (Supply), Sub-divisional Officer/Licensing Officer, a Scheduled Caste/Scheduled Tribe Officer posted in the district and the District Co-Operative Officer of the district. But the power



with respect to grant of licence is with the licensing authority, namely, the Sub-divisional Officer of the concerned Sub-division.

11. In that view of the matter, the aforesaid argument of the petitioner is not worth accepting.

12. We find that since the petitioner was adjudged the most suitable candidate way back in the year 2017 when for a deficiency with respect to her entitlement was noted and she was not granted licence, such recommendation ought not to be the basis for now filling up the vacant post.

13. The concerned respondents would be well advised and is directed to advertise the vacant shop for grant of licence and in case the petitioner applies for the same and is adjudged the most suitable candidate, necessary decision shall be taken.

14. Needless to state that there should not be any delay in filling up the vacancies as according to the scheme



of the Control Order of 2016, the process of grant of
licence has to be a continuous one.

15. With the aforesaid direction, the petition
stands disposed of.

(Ashutosh Kumar, J.)

(Anjani Kumar Sharan, J.)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.04.2022
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