

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7943 of 2022

Sangita Kumari Wife of Vidyanand Singh Resident of Village- Gangeli, P.S.-
K. Nagar (Maranga), District- Purnea.

... .. Petitioner

Versus

1. The State of Bihar Through Principal Secretary, Department of Food and consumer protection, Government of Bihar, Patna.
2. The Divisional Commissioner Purnea.
3. The Collector Purnea.
4. The Sub- Divisional Officer Sadar, Purnea.
5. The District Supply Officer Purnea.
6. The Block Supply Officer K. Nagar Block, District- Purnea.
7. Ruby Kumari Wife of Kailash Yadav Resident of Village- Naya Tola, Gangeli, P.S.- K. Nagar (Maranga), District- Purnea.

... .. Respondent

Appearance :

For the Petitioner	:	Mr. Pankaj Kumar Sinha, Advocate Mr. Rounak Kumar Singh 'Pankaj', Advocate
For the Respondent	:	Mr. Bimal Kumar Mr. Sunil Kumar Thakur, Advocate
For the State	:	Mr. Anisul Haque, AC to AAG-5

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 13-03-2023

1. The petitioner by way of this writ petition challenges the order passed by the Divisional Commissioner, Purnea dated 16.03.2022 whereby the appeal preferred by Ruby Kumari, respondent no. 7 was allowed and the PDS Shop allotted to the petitioner under the Bihar Targeted Public Distribution System (Control) Order, 2016 was cancelled.

2. Learned counsel for the petitioner submits that the order passed by the Divisional Commissioner is without



application of mind. The qualifications relating to someone else have been mentioned in the order while the petitioner possesses the requisite qualification for allotment and was placed at merit no. 1 in the select list for the allotment of the shop.

3. Learned counsel for the petitioner has also taken the court to the letter sent by the Divisional Supply Officer, Purnea with regard to the P.D.S. Appeal No.28/2019 (*Ruby Kumari vs. Sangita Kumari*) wherein he has stated about the petitioner being at no. 1 in merit and also of the fact that the petitioner could not file her certificate relating to computer knowledge with her original application form but the same was filed at the stage of receiving objections and was accepted by the selection committee and she was allotted the PDS Shop.

4. Learned counsel for the petitioner submits that the appeal has wrongly been allowed by the Divisional Commissioner.

5. *Per contra*, counsel appearing for the respondent - Ruby Kumari submits that the petitioner had not mentioned about her computer knowledge at the time of filing of her application and, therefore, her application form was liable to be rejected.

6. Learned counsel for the respondent submits that he



has received the documents under the Right to Information Act which shows that the application form taking on record certificate was not accepted by the authorities and it is wrong to state that her certificate was accepted subsequently by the Selection Committee. He further submits that the order passed by the Commissioner may have some typographical errors but the same would not deprive the respondent from her rightful claim for allotment.

7. Learned counsel appearing for the State has stated that both the orders issued by the Divisional Supply Officer as well as by the Divisional Commissioner are contrary to each other but the stand taken by the State is that the petitioner had not filed her computer knowledge certificate at the time of filing of the application and, therefore, he supports the order passed by the Divisional Commissioner, Purnea.

8. I have considered the submissions. This Court while examining writ petition Article 227 of the Constitution of India would not sit in appeal and would only examine the decision making process and my perversity and not the decision itself.

9. The Divisional Commissioner was required to decide the case after considering all the aspects. From perusal of



the order, it is apparent that while in one para he mentions about the petitioner possessing qualification of computer knowledge, in another para, he proceeds to decide the issue holding the petitioner not having qualification of computer. He also proceeds to treat her qualification differently as that of Maulvi. It is a case of complete non-application of mind and cannot be said to be merely typographical error. In the circumstances, the order passed by the Divisional Commissioner cannot be sustained and the same is, accordingly, liable to be set aside.

10. However, the issue would remain still alive as to who should be allotted the concerned PDS Shop. A look at the order passed by the Divisional Supply Officer reflects that the petitioner's computer qualification was accepted later on for the purpose of considering her candidature for allotment of the PDS Shop. In other aspects, she is more meritorious than the respondent. The conditions of applying for PDS shop required person to mention the qualifications in the application form itself. Since she did not mention the computer qualification at the time of applying, she moved another application on 26.07.2018 providing the said document. In the opinion of this Court, the delay in submitting of these certificates would not deprive her of her claim to compete for PDS Shop and



accordingly, I hold that she being more meritorious was rightly allotted the said shop. The order of cancelling her allotment passed by the Commissioner has been found to be not sustainable in law and accordingly, the order dated 16.03.2022 is quashed and her allotment stands restored. The authorities shall proceed accordingly.

11. Writ petition is allowed in aforesaid terms. No cost.

(Sanjeev Prakash Sharma, J)

Gauravkr/-
Item No. 40

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

