

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.509 of 2023

In
Civil Writ Jurisdiction Case No.7786 of 2022

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Munna Kumar Ram Son of Sri Nemi Ram, Resident of Village Bagahwan
Mishra, P.S. Bhore, District-Gopalganj

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The Chairman, the District Level Selection Committee (Supply), Gopalganj.
4. The District Magistrate-Cum-Collector, Gopalganj.
5. The Sub Divisional Officer, Hathua, District- Gopalganj.
6. The District Supply Officer, Gopalganj.
7. The Block Development Officer, Bhore, District-Gopalganj
8. The Block Supply Officer-Cum-Marketing Officer, Bhore, District-Gopalganj
9. Sri Virendra Kumar Singh Son of Late Babulal Singh, R/o Village- Noniya Chhapar, P.S.- Bhore, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ranjeet Kumar Pandey, Advocate
For the Respondent/s : Mr. S. Raza Ahmad, AAG-5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-08-2024

The appellant is aggrieved with the judgment of the learned Single Judge which allowed the writ petition and directed the PDS dealership to be granted to the writ petitioner herein.

2. The learned counsel for the appellant submits that



the appellant had a Post Graduate qualification and in that circumstance, under Rule 9(v) of the proviso to the Bihar Targeted PDS (Control) Order, 2016, the appellant is to be appointed to the post. It is also submitted that the writ petitioner had applied under the EBC category and the allotment was of an unreserved category dealership. There is a further dispute raised as to the Graduation in I.T. obtained by the writ petitioner by way of Distance Education.

3. The learned counsel for the respondents however asserted his higher qualification in Computer as per Annexure-A series, a Bachelor of Science Graduation in Information Technology.

4. We first extract Rule 9(v) of the Bihar Targeted PDS (Control) Order, 2016:

“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.”

5. The requirement for applying for a fair price shop license is only a Matric pass and a person who has passed the age of minority. The proviso indicates that the applicants having



Computer knowledge shall be given priority. Further, it states that in case of equality in Computer knowledge, the applicant having highest qualification and in case of equality in highest qualification, the applicant of older age should be given priority.

6. The writ petitioner is a Graduate in Information Technology while the appellant possesses Diploma in Computer Application and a Post Graduation in Arts. The claim of the appellant is based on the Post Graduation he has obtained in Arts.

7. We cannot but observe that Post Graduation in any other subject would not be relevant for considering the highest qualification. The prescription as per the proviso is that when there is parity in computer knowledge, the applicant having highest qualification should be given priority which means the highest qualification in computers, which is the only interpretation possible considering the principle of *ejusdem generis*. The writ petitioner has a Graduation in I.T. and the appellant has a Diploma in Computer Application which puts the writ petitioner in the higher qualification bracket and gives him priority of appointment.

8. In so far as the writ petitioner having applied under the EBC category since the dealership is unreserved; there can



be no prohibition of the reserved candidates to apply for the unreserved vacancies or allotments. If that is enforced it would result in the meritorious reserved candidates being kept away from allotment or appointment to unreserved vacancies/shops.

9. We also do not see any distinction in so far as the qualification as provided in Rule 9(v) with respect to a distance education and a classroom education.

10. In the aforesaid circumstances, we find no reason to interfere with the impugned judgment. The appeal fails and is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Saurabh/-

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Uploading Date	03.09.2024
Transmission Date	

