

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15725 of 2021

1. Chandra Shekhar Pandey son of Tapeswar Pandey resident of Village- Badaki Padhi, Police Station- Nabinagar, District- Aurangabad.
2. Shashi Kumar son of Late Ram Naresh Singh resident of Village- Churatola Parsurampur, Police Station- Barun, District- Aurangabad.
3. Manish Kumar son of Late Birendra Singh resident of Village- Barem, Police Station- Barem O.P. District- Aurangabad.
4. Raj Shekhar son of Chandra Shekhar Kumar Singh resident of Village- Bahuti, Police Station- Barun, District- Aurangabad.
5. Gautam Kumar son of Uday Ram resident of New Area, Ravidas Nagar, Ward No. 12, Aurangabad, Police Station and District- Aurangabad.
6. Anwar Hussain son of Ahmad Ali resident of Village- Kojhi Dumri, Police Station- Amba, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Principal Secretary Food and Civil Supply Department, Govt. of Bihar, Patna.
3. The Commissioner, Magadh Division, Gaya.
4. The District Magistrate, Aurangabad.
5. The District Supply Officer, Aurangabad.
6. The Sub- Divisional Officer-cum- Licensing Authority, Aurangabad.
7. The Sub- Divisional Officer, Daudnagar, District- Aurangabad.
8. The District Co-Operative Officer, Aurangabad.
9. The District Welfare Officer, Aurangabad.
10. The Executive Engineer, Public Health Engineering Department, Aurangabad.
11. The Deputy Development Commissioner, Jehanabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kamal Nayan Choubey, Sr. Advocate
Mr. Jitendra Prasad Singh, Advocate
For the Respondent/s : Mr. Alok Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)



Date : 23-02-2022

Heard Mr. Kamal Nayan Choubey, learned Senior Advocate for the petitioners and Mr. Alok Ranjan, learned Advocate for the State.

This writ petition was initially filed for setting aside the order dated 28.08.2019 passed by the Divisional Commissioner, Magadh Division, Gaya whereby the final selection list of proposed licensees under the PDS scheme for Aurangabad district has been cancelled on the basis of an *ex-parte* inquiry report submitted by three member inquiry committee constituted by the Divisional Commissioner. As also for setting aside the report of such inquiry committee as well as the direction of the Secretary, Food and Consumer Protection Department, Government of Bihar to initiate a fresh process of selection of PDS dealers in the district of Aurangabad.

From the conspectus of the pleadings and the documents brought on record, it appears that pursuant to an Advertisement No. 1 of 2017 inviting application for suitable candidates for grant of licence under the Bihar Targeted P.D.S. (Control) Order, 2016, the petitioners and others applied and were provisionally selected. The petitioners no. 1 to 4 were finally kept in Slot No. 1 to 4 whereas the petitioners no. 5 and 6 were selected under the reserved and handicapped categories respectively. Only when the licence was required to be issued by the licensing



authority, the Divisional Commissioner, Gaya *vide* order dated 11.03.2019 constituted a committee of three members to look into the grievances of some of the candidates who had not been selected.

Several writ petitions came to be filed before this Court and when some of the Benches were made known that a committee has been constituted to look into the grievances of the aspirants, this Court gave a general direction to the writ petitioners to appear before the Commissioner, Magadh Division, Gaya, who was further directed to look into the matter and have the complaints examined by a committee to be constituted in that regard and thereafter take a decision in accordance with law.

Before such orders were passed in different writ petitions, a three member committee had already been constituted which was looking into the complaints regarding the selection process.

The committee appears to have submitted its report on 08.07.2019. Since lot many inconsistencies were pointed out by the committee, the Government in the Food and Civil Supply Department thought it fit to annul the entire process and initiate a fresh selection process for issuance of licence in the district of Aurangabad.

Pursuant to the afore-noted decision, Advertisement No. 1 of 2019-20 has been published and



the process has been set in motion for selection of suitable candidates for being given the licence to run the PDS shops.

This Court has been made to understand that the aforesaid decision has been challenged by many of the writ petitions which are pending adjudication before this Court.

Mr. Choubey, learned Senior Advocate appearing for the petitioners has drawn the attention of this Court to an order dated 25.03.2021 passed by a Single Judge of this Court in CWJC No. 21657 of 2019, wherein it was held by the Court that the three member committee referred to above was constituted to look into the matter regarding general grievances of various applicants who had not succeeded in the selection process.

Since no information was available to the committee with respect to the petitioners therein who had already been selected and were duly communicated to deposit the required amount through challan, the general finding of the three member committee would not then be applicable and finding to the case of such petitioner and others.

The Court went on to state that the process could not have been annulled lock, stock and barrel without giving an opportunity to those successful candidates.



Under such circumstances, it was directed that the licencing authority must handover the licence to the petitioner therein, but he had the liberty to consider the complaint against the petitioner therein afresh giving an opportunity of hearing whereafter any decision could be taken.

The learned counsel for the petitioners has informed this Court that those petitioners had represented before the SDO but the application stood rejected against which order, an appeal is pending before the appellate authority *viz.* the Collector of the district.

The counsel for the State but has pointed out another decision under similar circumstances of the same Bench which had directed the three men inquiry committee to consider the individual cases of the petitioners therein and decide the matter within a stipulated period of time.

Since lot of developments have taken place and the entire selection process is for the benefit of consumers and the decision was taken by the Commissioner only on complaint of the process not being conducted fairly and impartially, we have some reservations in upturning such decision now at this stage when the next selection process has already begun.

At this stage, the learned counsel for the petitioners informed this Court that some of the similarly



placed petitioners have been given liberty by another co-ordinate Bench of this Court to approach the Principal Secretary/Secretary of the Department to ventilate their grievances.

Keeping in mind the aforesaid liberty given to some of the applicants by a co-ordinate Bench, we concede to the prayer made on behalf of the petitioners for being given the same liberty.

Should the petitioners deem it appropriate, they may approach the Principal Secretary of the Department within a period of 30 days, who after giving the petitioners a hearing shall pass a reasoned order within a period of 90 days and which order shall be communicated to the petitioners forthwith.

The writ petition stands disposed off accordingly.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
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