

Kalpana Kumari Vs State Of Bihar

Court: Patna High Court

Date of Decision: April 11, 2023

Hon'ble Judges: Ashutosh Kumar, J; Harish Kumar, J

Bench: Division Bench

Advocate: Shrishti Singh, Pranav Kumar, S. Raza Ahmad, Vishwambhar Prasad, Prashant Sinha

Final Decision: Dismissed

Judgement

Heard Ms. Shrishti Singh, learned advocate for the appellant and Mr. Prashant Sinha, learned advocate for the respondent no.7. We have also heard

Mr. Vishwambhar Prasad, learned advocate for the State.

The appellant was given the licence to run the Fair Price Shop in the event of respondent no.7 not having been found to have a computer degree.

The facts of the case is that against the advertisement for grant of licence in a particular area to run a Fair Price Shop, the appellant as well as

respondent no.7, both had applied. The respondent no.7 was a graduate and also had a computer degree of Advance Diploma in Computer Application

(ADCA). While filling up the form, respondent no.7 had not annexed the requisite certificates which was one of the essential requirements in the

advertisement. However, permission was granted by the competent authority and a date was fixed for rectification/raising objections against the

candidature of the others and further claim of the applicants.

It was in this context that after obtaining permission of the authorities, respondent no.7 was permitted to bring on record the requisite certificate of

ADCA. However, the Screening Committee found that the certificate of computer learning offered by respondent no.7 was collusive and therefore

her claim was negated, making way for the appellant to be given the license to run the fair price shop.

This decision was challenged by the respondent no.7, who questioned the order passed by the authorities holding her candidature to be bad and

granting licence to the appellant.

In the writ petition which was filed (C.W.J.C. No. 19445 of 2018), the learned single Judge took note of the fact that only under permission, the

requisite certificate of computer knowledge was filed by the respondent no.7 and the assessment of the competent authority that such certificate was

collusive, was without any substance as such statement was made without any investigation/verification on that account. Accordingly, the claim of

respondent no.7 was allowed, the licence of the appellant was cancelled and respondent no.7 was given the licence to run the Fair Price Shop.

Ms. Shrishti Singh, learned advocate for the appellant, had questioned the decision of the learned single Judge on two grounds that in view of the

categorical requirement in the advertisement that all necessary certificates had to be enclosed along with the application form, the competent

authorities could not have been so permissive to allow rectification of such application preferred by the aspirants. She has further submitted that once

a decision had been taken by the competent authority holding the computer certificate in favour of respondent no.7 to be not reliable, a vested interest

got created in favour of the appellant, which could not have been brushed aside lightly. Lastly, she has submitted that there has been no complaint

whatsoever against her functioning as a PDS dealer.

After having heard the learned counsel for the parties, we find that the requisite certificate of qualification in computer of respondent no.7 was

permitted to be filed by the competent authorities.

We are in agreement with the learned single Judge that such certificate could not have been held to be, in the absence of any verification or inquiry or

investigation, to be unreliable for acceptance. Even otherwise, if that certificate was taken into account, respondent no.7 had a higher qualification of

graduation.

Thus, finding no fault with the decision of the learned single Judge, we do not have any reason to interfere with the order.

The appeal is thus, dismissed.