
(2020) 06 UK CK 0048

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1759 Of 2019

Ranjeet Singh

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 26-06-2020

Acts Referred:

Citation : (2020) 06 UK CK 0048

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Advocate : S.K. Posti, Ashutosh Posti, S.R. Joshi, V.B.S. Negi, Ayush Negi

Final Decision : Partly Allowed

Judgement

Sudhanshu Dhulia, J

1. The petitioner before this Court has challenged the order dated 17.05.2019 passed by the Chief Superintendent, District Hospital, Uttarkashi, by

which the private respondent no. 5 has been allowed to open a pharmacist shop of generic medicines inside the Government Civil Hospital, at

Uttarkashi.

2. Sri S.K. Posti, learned Senior Advocate for the petitioner, states that the allotment of such shops are to be done under a Government of India

Scheme known as "Pradhan Mantri Bhartiya Janaushadhi Kendra (PMBJK)". When initially the process was initiated, a "No Objection

Certificate" was given in favour of the petitioner to open such a shop inside the Civil Hospital, Uttarkashi. There were directions to this effect from

the higher authorities as well, but nevertheless the Chief Medical Officer, Uttarkashi suo moto initiated a fresh process, in which ultimately the private

respondent no. 5 has been allotted this shop. Aggrieved, the petitioner has filed

the present writ petition before this Court.

3. The first prayer of the petitioner is that the allotment in favour of respondent no. 5 be cancelled and the second prayer is that since the process for

allotment of such a shop has already been completed in his favour, let the shop be given to him.

4. Learned Senior Counsel for the private respondent Mr. Vijay Bahadur Singh Negi objects and states that when initially under a due process the

petitioner had applied, his application had been rejected. Later the second procedure which was adopted, at the district level in case of the petitioner

was faulty. Thereafter a due process was initiated where several candidates applied including the petitioner and respondent no.5, and in the end

respondent no.5 was selected.

5. There seems to be, however, no transparency in the matter while allotting the shop either to the petitioner or to the private respondent. The

Committee which has ultimately given the shop in favour of the private respondent has also not disclosed any reasons as to why amongst the 5 to 6

candidates, who had participated and who had fulfilled the conditions for allotment were left aside for the private respondent. There is no finding on

this, and in absence of such a finding there is an arbitrariness which is writ large in the allotment process.

6. The same goes for the allotment process initiated at the behest of the petitioner. He seems to be the sole candidate in the process, nor is it clear

what procedure was followed in this allotment.

7. Learned Counsel for the State Mr. S.R. Joshi, has also pointed out before this Court the necessary eligibility conditions and another conditions

which a person has to fulfill for becoming a candidate for the allotment of a shop is given under the Scheme. The said conditions read as follows:

â??V. Requirements for opening PMBJK

(i) Own space or hired space (Minimum 120 sq. feet) duly supported by ownership, proper lease agreement or space allotment letter.

(ii) Proof of securing a pharmacist with name, Registration with the State Council etc. (or it can be submitted at the time of final approval of PMBJK).

(iii) Financial capacity to run the Store supported by Valid document or affidavit for having good financial condition and ready to invest to run Pradhan

Mantri Bhartiya Janaushadhi Kendra smoothly as per requirements.â??

8. There are other conditions as well, stipulated in the Scheme which a candidate must fulfill, before he becomes eligible for the allotment.

9. In view thereof, the order dated 17.05.2019 by which the allotment of shop was made to the private respondent is quashed and set aside as it does

not disclose any reasons as to why respondent no.5 was selected over the rest of the candidates.

10. The second prayer made by the petitioner for allotment cannot be given as there is no transparency in the process adopted in giving a shop to the petitioner as well.

11. Consequently, the writ petition is partly allowed. The State Government is directed to constitute a Committee as is liable to be constituted for such

purposes, which shall ask for applications from all the eligible candidates. The notice shall be given online, which shall also be given on the

Notice outside the Civil Hospital, Uttarkashi and all relevant offices such as District Magistrate office, Tehsil Office and Block Office etc., so

that the people of Uttarkashi and the State have a knowledge that such applications are being invited. If possible it may also be advertised in

newspapers which have a wide circulation in the area. In case, the Chief Medical Officer, Uttarkashi has to be a party to this, and in case there is an

inquiry going on against the Chief Medical Officer, Uttarkashi, as alleged by the Senior Counsel for the petitioner Mr. S.K. Posti, it would be better

that if in the selection committee meanwhile some other Chief Medical Officer is deputed purely for the transparency and in the interest of justice, and

for no other reasons.

12. Order dated 17.05.2019 by which shop was allotted to respondent no.5 is hence quashed. Let a decision be taken within a period of two months

from the date a certified copy of this order is given to the concerned Secretary of the Department.