

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5128 of 2018

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Sanjay Kumar Gupta, S/o Late Kanhai Sah, Resident of Village- Jhauwa, P.S.-
Awtar Nagar, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food & Consumer Protection, Bihar, Patna.
2. The District Magistrate, Saran at Chapra.
3. The District Supply Officer, Saran at Chapra.
4. The Sub Divisional Officer, Sonapur, Saran.
5. The Block Supply Officer at Dighwara, District- Saran.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Arvind Kumar Sinha, Adv
For the Respondent/s : Mr. ARVIND UJJWAL SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 06-07-2018

The present writ petition has been filed challenging the proceeding dated 16.10.2017 whereby and whereunder the claim of the petitioner for granting PDS shop has been dismissed in view of the fact that his elder brother, being separate in mess and business from him is in Government service; and for connected reliefs.

2. Learned counsel for the parties agree that the present issue is covered by a decision of this Court dated 12.01.2016 passed in CWJC No. 1424 of 2015, disposed of with the following observations --

"From bare perusal of the aforesaid provision, it appears that the mandate is that the shop should not be allotted to the applicant if he holds a post of profit income from the



Government. In the present case, admittedly, not the petitioner but the brother of the petitioner is holding the post of profit in Government, therefore, in my view this clause is not at all attracted in the case of the petitioner. Similar view has been taken by the Single Bench of this Court in C.W.J.C. No.98 of 2013 disposed of on 07.01.2013 (Annexure 5) holding that the control order does not reflect that the brother of the petitioner being in Government service would create any bar for consideration of the candidature of the petitioner. It has been further held that even otherwise also a PDS licence is not akin to appointment in Government service but has an element of a fundamental right to vocation under Article 19 of the Constitution of India. “

3. In this view of the matter, rejection of the petitioner’s application in terms of minutes of the meeting of the PDS District Compassionate Appointment Committee held on 16.10.2017 insofar as concerns the petitioner is hereby quashed and the matter remanded to the said Committee for taking a fresh decision in the matter.

4. The writ petition stands disposed of.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
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