

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10899 of 2019

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Ramendra Nath Tiwary, Son of late Hiranath Tiwary, Resident of Village-
Lakri Bishunpur, Block Phulwariya, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Food and Consumer Protection
Deptt. Government of Bihar, Patna.
2. The District Magistrate-Cum-Chairman of Compassionate Appointment
Committee, Gopalganj.
3. The District Supply Officer, Gopalganj.
4. The Sub Divisional Officer, Gopalganj.
5. The Sub Divisional Officer, Hathua.
6. The District Co-operative Officer, Gopalganj.
7. The District Project Officer, Gopalganj.
8. District Accounts Officer, Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar Singh, Advocate Mr. Arun Kumar Singh, Advocate
For the Respondent/s	:	Mr. Alok Ranjan, AC to A.A.G. - 5

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 14-01-2020

Heard the learned counsel for the parties.



The father of the petitioner was a licensee under the PDS Scheme who died in the year 2015.

The petitioner appears to have applied for being granted license on compassionate ground sometimes in the year 2015. The application of the petitioner was never accepted and the same was pressed only after the implementation of the Bihar Targeted Public Distribution System (Control) Order, 2016. Rule 10 of the aforesaid order of 2016 clearly indicates the procedure for granting license on compassionate ground and one of the conditions precedent is that no person below the educational qualification of matriculation would be granted license on compassionate ground.

Considering this aspect of the matter, the claim of the petitioner for being considered for grant of license has been rejected and which rejection order has been impugned in the present petition.

The argument raised on behalf of the petitioner is that the Bihar Targeted Public Distribution System



(Control) Order, 2016 would apply prospectively and in the case of the petitioner, whose father was a licensee, died in 2015 when the Public Distribution System Control Order, 2001 as amended in 2011 was in operation.

In the aforesaid Control Order of 2001 (amended in 2011), there was no minimum requirement fixed for any claimant of license on compassionate ground. However, in the Control Order of 2001 (amended in 2011), the other requirements for considering the case of any applicant on compassionate ground was that the licensee ought to have died prior to the age of 55 years.

The other condition for grant of license on compassionate ground were almost similar to as in the 2016 Order, which requires a claimant to furnish no objection certificate on the part of the other heirs, who could also claim such privilege.

The claim of the petitioner in the present instance has been negatived on the ground that even though the death had taken place in the year 2015 but since no order



was passed on such application filed by the petitioner prior to 2016, his application would now be tested on the anvil of the requirements set out in the Bihar Targeted Public Distribution System (Control) Order, 2016.

Since the requirement under the present Regulation is of being a matriculate for seeking such privilege, the petitioner fails on that account.

The decision of the respondent in not applying the 2011 Rules and subjecting the petitioner to the rigors of 2016 Rules is justified for two reasons.

The application preferred by the petitioner in the year 2015 was never acted upon and as on date there is no information provided by the petitioner that his father died at an age which was less than 55 years.

Taking these two aspects of the matter in the background, it is difficult for this Court to question the correctness of the decision of the respondent in not granting license to the petitioner for his lack of minimum educational qualification.



The petition, therefore, has no merits and is
dismissed accordingly.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	18.01.2020
Transmission Date	

