

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25818 of 2019

1. Sumitra Devi Wife of Ravindra Narayan Singh Resident of Village- Korigama, P.S. Baheri, District- Darbhanga.
2. Jawahar Singh Son of Late Nityanand Singh Resident of Village- Baktiyarpur, P.S.- Manshi, District- Khagaria.
3. Kumar Kamta Singh Son of Dashrath Singh Resident of Village- Musepur, P.S. Doriganj, District Saran at Chapra.
4. Abdul Zabbar Son of Late Molvi Shekhawat Hussain Resident of Village- Maida Babhangama, P.S.- Birpur, District- Begusarai.
5. Raja Ram Rai Son of Bhowneshwar Rai Resident of Village- Churamanchak, P.S.- Bhagwanpur, District- Begusarai.
6. Shatruhan Prasad @ Shatrudhan Prasad Son of Late Hardeo Prasad Resident of Village- Amarpur, P.S. Barauni, District- Begusarai.
7. Jagdish Singh Son of Late Ramdhan Singh Resident of Village- Mehdoli, P.S.- Bhagwanpur, District- Begusarai.
8. Mahendra Sah Son of Late Janki Sah Resident of Village- Chandaaur, P.S.- Bhagwanpur, District- Begusarai.
9. Ramu Sah Son of Late Jaykaran Sah Resident of Village- Maheshpur, P.S.- Bhagwanpur, District- Begusarai.
10. Ramchandra Raut Son of Ganauri Raut Resident of Village- Semat, P.S.- Bhagwanpur, District- Begusarai.
11. Upendra Rai Son of Late Shivnandan Rai Resident of Village- Lakhanpur, P.S. Bhagwanpur, District- Begusarai.
12. Sakaldeep Manjhi Son of Late Phaguni Manjhi Resident of Village- Dhuparchak, P.S. Phulwarisarif, District- Patna.
13. Ganga Ram Yadav Son of Late Bal Govind Yadav Resident of Village- Dahipura, P.S. Kewati, District- Darbhanga.
14. Satyanarayan Sah Son of Sri Vamdeo Shah Resident of Village- Pachadhi, P.S.- Raiyam, District- Darbhanga.
15. Mitali Kumari Wife of Vinod Kumar Resident of Village- Parsa, P.S.- Hathouri (Shivaji Nagar), District- Samastipur.
16. Babu Dhan Ram Son of Dular Chand Ram Resident of Village- Khirikon, P.S. Agiaon, District- Bhojpur.
17. Arjun Paswan Son of Viltu Paswan Resident of Village- Daudapur, P.S.- Nursarai, District- Nalanda.
18. Dev Narayan Ray Son of Ram Swarup Ray Resident of Village- Arout, P.S. Rosera, District- Samastipur.
19. Harihar Prasad Choudhary Son of Funsil Lal Choudhary Resident of Ward No. 09, Gandhingar, P.S.- Kahalgau, District- Bhagalpur.
20. Kapildeo Singh Son of Late Ramphal Singh Resident of Village- Rampur Bakhara, P.S. Bhagwanpur, District- Vaishali.



21. Anil Kumar Son of Krishna Murari Singh Resident of Village- Kastar, P.S.- Vikram Ganj, District- Rohtas.
22. Rameshwar Ravidas Son of Ganouri Das Resident of Village- Amarapur, P.S.- Kahalgaon, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary to Government of Bihar, Main Secretariat, Patna.
2. The Principal Secretary, Food and Consumer Protection Department, Main Secretariat, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajeev Kumar Labh
For the Respondent/s : Mr.Lalit Kishore (Ag)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 06-01-2020 This petition filed on 21.12.2019 is listed for hearing
for the first time before this Court today.

Heard learned counsel for the petitioner and learned
counsel for the respondents.

The petitioners have prayed for the following relief:

“For quashing the Rule/Clause 16 of the Bihar Targeted Public Distribution System(Control) Order, 2016 made by the respondent, as published in Bihar Gazette (extra ordinary issue) No. Patna 201 dated 14th March,2016, by which Rule/Clause 16 of the impugned gazette has been noted that -Transfer of licence-A fair price shop license shall not be transferred in the name of any member of a family or of any other person. No partnership shall be allowed



in a fair price shop or in its license and may further allow the petitioners to transfer his/her P.D.S. license to one member of his/her dependent and to keep a partner in his/her shop and in his/her licence.”

After having heard learned counsel for the petitioner, we are of the considered view that no case for interference is made out at all. Rule 16 of the Bihar Targeted Public Distribution System(Control) Order, 2016 (hereinafter referred to as the ‘Order 2016’) reads as under:

“16. Transfer of Licence.- A fair price shop license shall not be transferred in the name of any member of a family or of any other person. No partnership shall be allowed in a fair price shop or in its license.”

It is this Clause, which the petitioner has challenged. As to how and in what manner the said Rule is *ultra vires* the Act or the Constitution, remains unexplained either in the grounds or body of the petition or in the averments made at the bar.

Grant of license is a privilege conferred on an individual/a body under the provisions of the Order, 2016. Legislation cannot be said to be arbitrary in any manner. The object and purpose of the Act is to ensure that general public does not suffer and that there is transparency in the public



distribution of goods sold through a mechanism by fair price shops. There is legislative competence. And the licence is subject to fulfillment of conditions, which any authorised person can fulfill, subject to eligibility. As such, we do not find the order to be offending any one of the Articles of part-3 of the Constitution or the principle Act.

For the aforesaid reasons, the present petition stands dismissed.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

sujit/-

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