

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10576 of 2020

Indu Devi Wife of Rakesh Kumar Resident of Village- Paharpura, P.O.-
Jalpura, P.S.- Haspura, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, Food and Civil Supply (Consumer Protection) Department, Government of Bihar, Patna.
2. The District Magistrate, Aurangabad.
3. The Sub- Divisional Officer, Daudnagar, District- Aurangabad.
4. The District Supply officer, Aurangabad.
5. The Block Supply Officer, Haspura, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Satya Veer, Advocate
Mr. Sanjay Kumar Jha, Advocate
For the Respondent/s : Mr. Arvind Ujjwal, SC-4

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

4 24-01-2022 This application has been taken up for online hearing through video conference because of COVID-19 pandemic restrictions.

It is the petitioner's case that her father-in-law held a licence to run a Fair Price Shop under Bihar Targeted Public Distribution System (Control) Order, 2016 ('Control order, 2016' for short). Petitioner's father died on 08.02.2019 at the age of 53 (fifty three) years.



Rule 10 of the Control Order, 2016 contemplates grant of Fair Price Shop licence on compassionate basis in case of death of Fair Price Shop's licensee under the age of 58 (fifty eight) years. Rule 10 of the Control Order, 2016 reads as under :-

“10. A fair price shop license on Compassionate Ground. - In case of death of a fair price shop's licensee under the age of 58 (fifty eight) years, his shop may be allotted in order of priority to his/her wife/husband, son, unmarried daughter, daughter-in-law, and widow of his son. If there are out of these more than one dependent, all the other are required to forsake their claim in favour of one through an affidavit. The application in this regard shall be entertained, if submitted within two years from the date of death of the licensee by his dependent. If granted, such a fair price shop license shall be a new license, and it shall be permissible for further compassionate ground license, but if any member of the family of the deceased licensee is a government servant or holds a post of profit in the government, such a family shall not get benefit of compassionate ground.”

The petitioner had applied for grant of licence under Rule 10 of the Control Order, 2016, which has been rejected by a Committee headed by the District Magistrate, Aurangabad, on



the ground that son of the deceased licensee holds a post of profit in the government.

The petitioner is aggrieved by the said decision of the Committee dated 07.07.2020 issued by memo No. 549 dated 08.07.2020. The petitioner, however, does not dispute that son of the deceased licensee holds a post of profit in the government.

Learned counsel for the petitioner, however, submits that there has been a separation in the joint family and the said son of the licensee is no more a member of the joint family to which the petitioner belongs.

It is manifest from the provision under Rule 10 that it does not permit grant of licence on compassionate basis if a family member of the deceased licensee is a government servant or holds a post of profit in the government. The Licensing Authority or any Selection Committee does not have any discretion to take any decision otherwise, in conflict with the requirement under Rule 10.

She does not require to be reinstated with grant of any privilege on compassionate ground which is governed by the scheme for such grant.

In our opinion, rejection of the petitioner's application



for grant of licence on compassionate ground is in accordance
with Rule 10 of the Control Order, 2016.

We, therefore, do not find any merit in this
application, which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

K.K.RAO/-

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