

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15503 of 2021

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Devendra Kumar Son of Late Siyaram Sah, Resident of Village Jafarpur, P.S.
Sheohar, District - Sheohar.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate cum Chairman of District Level Selection Committee, Sheohar.
3. The District Supply Officer cum Secretary, District Selection Committee, Sheohar.
4. The Sub-Divisional Officer, Sheohar.
5. The Block Supply Officer, Sheohar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Priya Gupta, Advocate
For the Respondent/s : Mr. Alok Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 28-09-2022

Heard Mr. S.D. Sanjay, learned Senior Advocate for

the petitioner and Mr. Alok Ranjan, learned Advocate for the

State.

The petitioner is aggrieved by the decision of the

District Selection Committee refusing to grant license to the

petitioner on compassionate ground.

It has been urged on behalf of the petitioner that his

father was a PDS dealer since 1985, who left the world of



living on 16.02.2014. During the currency of the license of the late father of the petitioner, the elder son of his viz. Birendra Kumar was also granted a PDS license bearing License No. 10/95. Later, his license was cancelled on the ground that it was in the teeth of the Control Order of 2001 which prevented two persons in a family being granted PDS license.

Later, on the intervention of this Court on the ground that once a license is granted, that cannot be taken back, the license of the brother of the petitioner was restored.

It is the case of the petitioner that while his father was the licensee, because of his ill health, the petitioner only managed the affairs of the shop. On the death of his father, the petitioner applied for grant of license on compassionate ground, which application was recommended by the concerned authorities and the District Selection Committee also recommended for grant of license to the petitioner on compassionate ground. However the licensing authority, taking recourse to the provisions contained in Section 11 of the Control Order of 2016, refused to grant license to the



petitioner on the premise that his brother had a running license under the PDS scheme.

This refusal was challenged by the petitioner before this Court *vide* CWJC No. 10322 of 2015, which was disposed of by order dated 23.02.2016. This Court remanded the matter to the District Selection Committee for a reconsideration. The District Selection Committee thereafter again refused to grant license to the petitioner.

Hence, the present writ petition.

The learned counsel for the petitioner has submitted that Section 11 of the Control Order, 2016 is very specific that the disqualification would only be attracted in case there is more than one member in a joint family. It was clearly found out by the authorities recommending the case of the petitioner that during the lifetime of the father of the petitioner, the brother of the petitioner *viz.* Birendra Kumar had separated and was also a recipient of a PDS license, which is still in currency.

Thus for all practical purposes, it has been urged on behalf of the petitioner that the disqualification as



contemplated under Section 11 of the Control Order of 2016 will not apply to the case of the petitioner; more so, when at all stages, the authorities concerned had recommended for grant of PDS license to the petitioner. At one point of time, based on the observation of this Court that unless the provisions contained in Section 11 of the Control Order of 2016 is challenged, the petitioner would not be in a position to effectively assail the order of the District Selection Committee, the petitioner has filed an I.A. application challenging the correctness and interpretation of Section 11 of the Control Order of 2016.

However, we find that such exercise would not be necessary.

In view of the notification dated 14.03.2016 issued by the Government in exercise of the Public Distribution System (Control) Order 2001, we deem it appropriate to refer the matter to the Divisional Commissioner for necessary interpretation and sequel action in that regard.

In the event of the petitioner bringing this order to the notice of the Divisional Commissioner within a period of



fifteen days, he shall look into the matter, especially that the disqualification in Section 11 of the Control Order of 2016 is limited to the members of a joint family and not otherwise and after hearing all the parties, shall pass a reasoned order within a period of sixty days thereafter. Necessary direction shall be issued by the Divisional Commissioner to the District Selection Committee for the needful, whereafter the concerned authority shall pass necessary sequel order.

Any breach in the timeline provided by this Court shall be viewed seriously.

With the afore-noted direction/observation, the writ petition stands allowed and disposed of.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.09.2022
Transmission Date	

