

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13505 of 2022

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Shobha Devi Wife of Raju Kumar Resident of Village- Bhadsa, Police Station- Amjhor, Block- Tilauthu, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Affairs, Government of Bihar, Patna.
2. The District Magistrate-cum- Chairman, District- Rohtas at Sasaram.
3. The Sub Divisional Officer-cum- Licensing Authority, Dehri, District- Rohtas.
4. The Block Supply Officer, Tilauthu, District- Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Tiwary
For the Respondent/s : Mr. Upendra Pratap Singh

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

2 02-02-2023 Heard Mr. Sanjay Kumar Tiwary, the learned

counsel for the petitioner and Mr. Upendra Pratap Singh, the

learned counsel for the State.

The father-in-law of the petitioner was a licensee

who died on 01.07.2016.

The husband of the petitioner, thereafter, filed an

application for being considered for grant of license on

compassionate ground.

Even though, such application was filed



immediately after the death of the licensee, such application was kept pending for three years when it was notified by the authority, namely, the District Selection Committee, that since the husband of the petitioner did not have the requisite minimum qualification of matriculation, he cannot be granted license on compassionate ground.

Realizing that the husband of the petitioner did not have requisite educational qualification, he filed an application before the authority concerned stating that in his place, his wife, the petitioner ought to be considered.

The claim of the petitioner for being granted license on compassionate ground has now been rejected on the ground that the death of the original licensee had taken place more than two years ago and, therefore, there cannot be any claim for grant of license on compassionate ground.

Mr. Tiwary, the learned counsel for the petitioner submits that the District Selection Committee did not take into account that the application remained pending and this continuity ought to have been taken into account and the period of limitation in preferring such application should not



have been counted in a mechanical manner.

Be that as it may, the decision of the Committee not to grant license to the petitioner on compassionate ground was challenged before the Appellate Authority, namely, the Collector, Rohtas at Sasaram, who rejected the appeal on, as has been urged, a fallacious ground that against such decision making of the Committee, no provision of appeal is provided.

Mr. Tiwary submits that though Section 32 provides for a forum of appeal against any order refusing to grant license but the order passed in appeal is not based on correct facts, hence it cannot be sustained and the Commissioner of the Division be asked to decide the same. There is force in the submission of the petitioner.

The appellate order dated 11.03.2022 is set aside.

Considering the issues raised by the petitioner in this petition and in view of the notification dated 21.07.2022 issued by the Government in exercise of the powers conferred under Sections 3 and 5 of the Essential Commodities Act, 1955 read with Clause -36 of the Bihar



Targeted Public Distribution System (Control) Order, 2016, we direct that in the event of the petitioner making a suitable representation / complaint before the concerned Divisional Commissioner within a period of 15 days, he shall look into the matter and after hearing all the stakeholders, shall pass a final order within a further period of 60 days, giving reasons in support of the decision taken by him.

The order so passed by the authority shall be made available to the petitioner forthwith.

The writ petition stands disposed of accordingly.

(Ashutosh Kumar, J)

(Satyavrat Verma, J)

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