

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15350 of 2022

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Annu Devi W/o Mritunjay Kumar Sah Resident of Village- Amari Kukraun,
P.O.- Kukraun, P.S.- Dhamdaha, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Chairman, District Level Selection Committee, District- Purnea.
3. The Collector-cum-District Magistrate, Purnea..
4. The Sub Divisional Officer, Dhamdaha, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Adv.
For the Respondent/s : Mr. S. Raza Ahmad (Aag5)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 21-08-2023

The present writ application has been filed for the following reliefs:

“1. That the present writ application is being filed on behalf of the petitioner above named for quashing the part of the order so 1151 far petitioner is concerned contained in Memo No. 1401 dated 9.7.2022 by which the application of the petitioner was rejected on the ground the husband of the petitioner namely Mritunjay Kumar has given in writing that he is illiterate (Ashikshit) whereas he has put his signature on the affidavit and as such the affidavit sworn by the husband of the petitioner is wrong and rejected the application of the petitioner for grant of PDS license on compassionate which is bad and illegal in the eye of law.”



2. Learned counsel for the petitioner has stated that the petitioner has applied for compassionate appointment of a dealership which was originally in the name of her father-in-law as per Rule 10 of the Bihar Targeted PDS (Control) Order, 2016. That the petitioner is the daughter-in-law of the deceased PDS dealer and is eligible to apply under the said schemes and to that effect the petitioner has made a requisite application with all required documents. That the authority on legally untenable grounds has rejected the application made by the petitioner. Learned counsel has stated that the reason for rejecting the application of the petitioner is that in the affidavit filed by the husband of the petitioner, it was stated that he is an illiterate person but has signed on the said affidavit and, therefore, he is not an illiterate person. Learned counsel has stated that the said reason for rejection is legally untenable and the authority instead of verifying the educational qualification of the petitioner as per the Rule 9 & 10 of the Bihar Targeted PDS (Control) Order, 2016 has rejected the application made by the petitioner on a legally untenable ground. Therefore, learned counsel for the petitioner has prayed this Hon'ble Court to allow the present writ petition and grant the relief prayed for.



3. *Per contra*, learned counsel appearing on behalf of the respondents has stated that the authority has passed the impugned order based on the affidavit filed by the husband of the petitioner, wherein the husband has stated that he is an illiterate person but he has signed the said affidavit. Learned counsel for the respondents has stated that the only ground on which the application of the petitioner has been rejected is on the ground that in the affidavit filed by the husband of the petitioner it was stated that he was an illiterate and the same was found to be false as he has signed the said affidavit. Therefore, learned counsel appearing on behalf of the respondents has prayed this Hon'ble Court to dismiss the present writ petition.

4. Admittedly, in the present case the father-in-law of the petitioner was having a PDS license and he died on 08.11.2018, the petitioner being one of the eligible persons has applied for the PDS license on compassionate grounds envisaged under the scheme. In order to appreciate the point involved, it is necessary to extract Rule 9 (V) & Rule 10 which read as under;

“Rule 9(V):

The applicant of a fair price shop's license must be matric pass and an adult; Provided that the applicant having computer knowledge shall be given priority. In case of equality in computer knowledge, the applicant having highest qualification and in case of



equality in highest qualification also the applicant of older age shall be given priority.

Rule 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."*

5. A perusal of the above Rules shows that under the said rule the person applying under compassionate ground should be one of the family member shown in Rule 10 and should be a matric pass and should be a well conversant with the computer knowledge. However, as seen from the impugned order the only ground on which the application of the petitioner is rejected is on the ground that the husband of the petitioner in the affidavit filed in support of the petitioner has stated that the he is an illiterate



person but has signed the said affidavit. The authority solely on the ground that the husband of the petitioner has filed a false affidavit has rejected the case of the petitioner without verifying as to whether the petitioner is otherwise qualified or not. If any application is made by a person, the said application has to be scrutinized with reference to the provisions of the Rule but they should not take any other extraneous material into account. Rule 9(V) & 10 of the Bihar Targeted PDS (Control) Order, 2016 clearly states that to be eligible to apply on a compassionate appointment the petitioner should have a matric pass and should be well conversant with the computer knowledge. The authority without verifying these aspects has totally misdirected itself in giving a finding that the husband of the petitioner has signed on the affidavit whereas he has stated that he is an illiterate person and, therefore, he has filed a false affidavit. There are lakhs of citizen in this country who are illiterate but are able to sign their names. The authority concerned has lost sight of this fact and rejected the application of the petitioner on a legally untenable ground. Therefore, this Court is constrained to set aside the order and remanded the matter back to the authority concerned for considering the application of the petitioner afresh duly taking into



consideration the educational qualification and proficiency in computer knowledge.

6. With the above direction, the present writ petition stands allowed to the extent indicated. The entire exercise shall be completed within a period of two months from the date of receipt of the copy of this order.

(A. Abhishek Reddy, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.08.2023.
Transmission Date	N/A

