

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7439 of 2024**

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Suraj Kumar Son of Late Shiv Baran Prasad, Resident of Mauna Gola Road,  
P.S.- Chapra Town Dist- Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Food and Supply Department, Government of Bihar, Patna.
2. The District Magistrate, Saran at Chapra.
3. The Sub Divisional Officer, Chapra, Saran.
4. The Sub Divisional Officer, Marhaura, Dist- Saran.
5. The Sub Divisional Officer, Sonepur, Dist.- Chapra.
6. The District Co-operative Officer, Saran, Chapra.
7. The District Transport Officer, Saran, Chapra.
8. The District Supply Officer, Saran, Chapra.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Ramchandra Sahni, Advocate |
| For the Respondent/s | : | Mr. Rakesh Paswan, AC SC 21    |

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**CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY**  
**ORAL ORDER**

5      20-11-2024                      The present writ petition has been filed for the  
following reliefs :

“i. To issue writ in the nature of mandamus commanding the respondents to issue new license of Fair Price shop to the petitioner on compassionate ground because License of Fair Price Shop was running in the name of father of the petitioner who died on 04.07.2021 at the age of 53 years 6 months and 3 days which was prior to completion of age 58 years, hence the petitioner is



entitled for new license of Fair Price Shop under Bihar Public Distribution System (Control) Order 2016, notification issued vide memo no.1750 dated-10.03.2016 by the department, Government of Bihar.

ii. To cancel the decision taken on 12.02.2024 the letter vide memo 806 dated-21.12.2023 issued under the signature of Sub Divisional Officer, Sonapur (Respondent no.5) wherein it has been stated that the petitioner has not produced another evidence with regard to proof of age of the deceased father and recommendation has been made to cancel the application form for grant of license in favour of the petitioner on the ground that the age of the father of the petitioner at the time of death i.e. 04.07.2021 was 62 years which is recorded in the electoral department in Sub Divisional Officer, Sonapur which is not permissible in the eye of law.

iii. To grant another relief/ reliefs for which petitioner is entitled under law according to facts and circumstances of the case.”



2. The case of the petitioner is that the Fair Price Shop license No. 92 of 2016 was in the name of his father late Shiv Baran Prasad who died on 04.07.2021. After death of his father the petitioner having requisite qualification had applied for grant of new license of Fair Price Shop on compassionate ground. The date of Birth of his father as mentioned in the Aadhar Card was 01.01.1968. It is submitted that a meeting was held on 21.12.2023 under the Chairmanship of the District Magistrate, Saran for grant of new license of Fair Price Shop to the dependents of deceased licensee holder of Public Distribution System and final decision was taken on 12.02.2024 but the name of the petitioner has not been selected on the ground that S.D.O, Sonapur has recommended in its letter dated 20.12.2023 that the petitioner has not produced another evidence with regard to age of deceased father and as per voter I.D card as available in department the age of the father of the petitioner was 62 years at the time of his death i.e. 04.07.2021.

3. Learned counsel for the petitioner has stated that only on the basis of age as reflected in the voter list, the authorities have rejected the candidature of the petitioner without providing him any opportunity of hearing to submit the birth certificate and other relevant documents to certify that the father



of the petitioner was less than 62 years of age at the time of his death. Counsel has therefore, prayed that the matter be remanded back to the authority concerned for consideration afresh taking into consideration the birth certificate issued by the Registrar Birth and death.

4. Learned counsel for the respondents has vehemently opposed the application of the petitioner and has stated that the present writ petition is not maintainable as the petitioner has approached this Court without availing the alternative and efficacious remedy of appeal before the Divisional Commissioner as per the amended Clause-5(VI) of the Control Order.

5. Having regard to the same the impugned order is set aside and the matter is remanded back to the authorities concerned for passing orders afresh. The authority shall before passing order take into consideration the birth certificate issued by the Registrar Birth and death as another evidence to show the date of birth of the father. The authority shall pass a reasoned order setting out the reasons. It is made clear that this Court has not gone into the merits of the case and the authority is directed to pass order strictly on merits in accordance with law.

6. It is needless to mention that before passing any order



the petitioner shall be given an opportunity of hearing. The entire exercise shall be completed as expeditiously as possible preferably within a period of 8 weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the petitioner.

7. With the above direction, the writ petition stands disposed of.

**(A. Abhishek Reddy , J)**

Prakash/-

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