

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14022 of 2017

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Mukul Kumar Singh Son of Late Shyam Narayan Singh, Resident of Village-
Khajpura, P.S.- Hawaii Adda, District- Patna Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar a through Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Consumer Protection, Government of Bihar, Patna.
3. The District Level Selection Committee through the District Magistrate, Patna.
4. The District Magistrate, Patna.
5. The Sub- Divisional Officer, Patna Sadar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, Sr. Advocate
For the Respondent/s : Mr. Arvind Ujwal, SC 4

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 12-05-2025

1. The petitioner has filed the Writ application for the following reliefs:

“That in the present Writ Application the Petitioner prays for a direction to the Respondents to grant PDS License to the Petitioner on the ground of compassion in view of death of his father Late Shyam Narayan Singh and issuance of declaration that the grounds taken for rejecting the application for PDS License on compassionate ground by



the District Level Committee in its meeting dated 26.08.2017 are illegal, without Jurisdiction and contrary to the Bihar targeted Public Distribution System (Control) Order, 2016 (in short the Control Order, 2016)."

2. The brief facts culled out of petition are that the petitioner seeks the grant of a Public Distribution Shop (PDS) license on compassionate grounds following the death of his father Late Shyam Narayan Singh on 1.10.2016. The said deceased held a PDS license, which was renewed till 05.09.2021. It is submitted that within two years from the death, of his father, the petitioner being the only son, submitted his application for grant of PDS License on compassionate ground.

3. It is submitted by the Learned Senior Counsel for the petitioner that it is not in dispute that the father of the petitioner was a PDS dealer and died on 01.10.2016 and the application of the petitioner dated 10.03.2017 was submitted along with all the required documents. However, due to



personal reasons, the petitioner could not complete his matriculation. The District Level Selection Committee applied the requirement of Clause 9(v) of the PDS Control Order, 2016 and rejected the application on the ground that the petitioners is non matriculate.

4. It is contended by the Learned Senior counsel for the petitioner that the reference in Clause 10 stating that the License granted on compassionate ground would be an independent and new license is stating the obvious. Since a PDS License is neither in heritable nor transferable the license subsists during the life time of the licensee or until the Order of cancellation, as the case may be.

5. It is further contended that even a license issued on compassionate ground binds the licensee to the terms of the license. Even in such cases a new license is issued and the licensee must comply all the statutory requirements. There is no exemption from compliance with the terms of the licence merely because it is issued on



compassionate ground.

6. It is further submitted that the reference to such license only to bind the licensee with all the obligations. It is meant to clarify that no special benefits or exemptions are extended to a compassionate license holder and licensees.

7. It is further contended by the Learned Senior counsel for the petitioner that application of Rules and Regulations of normal applicant in the matter of selection of candidate for license of compassion would defeat the very object and purpose of granting a license on compassionate ground.

8. Lastly, the Learned Senior counsel for the petitioner submitted that in the facts and circumstance of the rejection of Petitioner's application on the ground for non fulfillment of requirements of Clause 9 (v) of the Control Order 2016 is wholly illegal and arbitraryh and, therefore, the same is liable to be quashed and the Petitioner is entitled for the license on compassionate ground.



9. The Learned counsel for the State has drawn the attention of this Court to Clause 9(v) of the PDS Control Order, 2016, which reads as under:

"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. "

Upon perusal of Clause 9(v) of the PDS Control Order, 2016, it is evident that the applicant of a fair price shop's license must be a matriculate. In the present case, it is not in dispute that the petitioner, at the time of submitting the application for allotment of a Fair Price Shop on compassionate ground, had only studied only up to Class IX and did not possess the requisite matriculation qualification.



10. A plain reading of the impugned order (Annexure-5) reveals that the petitioner's application was rejected on the ground of not fulfilling the prescribed educational qualification. It further appears evident that several other applications were similarly rejected on the same ground, indicating a uniform application of the eligibility criteria.

11. It also appears from the records that the petitioner has not preferred any appeal against the impugned order (Annexure-5).

12. At this juncture, the Learned counsel for the respondents contended that Section 32(iii) of the Bihar Targeted Public Distribution System (Control) Order, 2016 provides for a provision of statutory appeal.

13. Heard the Learned Senior counsel for the petitioner, Mr. Anand Kumar Ojha, and the Learned counsel for the respondents.

14. Admittedly, the petitioner has an alternative statutory remedy of filing an appeal under Section 32(iii) of the PDC Control Order,



2016, before the appropriate authority.

15. Accordingly, the writ petition is disposed of with a direction to the petitioner to avail of the alternative remedy by filing an appeal before the competent authority. The appeal shall be preferred within a period of four weeks from the date of receipt of a copy of this order and the delay in filing the appeal shall be condoned by the concerned authority. The said authority shall, thereafter, dispose of the appeal on merits, in accordance with law, within a period of two months from the date of filing of the appeal.

16. With the aforesaid observations and directions, the writ petition stands disposed of.

17. Interlocutory Application(s), if any, shall stand disposed of

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.05.2025
Transmission Date	

