

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5819 of 2024

1. Abhishek Kumar, Son of Late Dara Yadav, Resident of Village Orma Nawka Tola Hakam P.S. Siwan Muffasil District Siwan.
2. Most. Kusum Devi, Widow of Late Dara Yadav, R/O Village Orma Nawka Tola, Hakam, P.S. Siwan Muffasil, District Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar Patna.
2. The Principal Secretary Social Welfare Department (ICDS), Govt. of Bihar, Patna.
3. The District Collector Siwan.
4. The Sub Divisional Officer, Siwan Sadar District Swan
5. The Block Development Officer, Siwan Sadar District Siwan
6. The Marketing Officer Siwan Sadar District Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. D. K. Sinha, Sr. Adv. Mr. Ajay Kumar Pandey, Adv. Mr. A. Ashok, Adv.
For the Respondent/s	:	Mr. Government Pleader 7 Ms. Supragya, AC to GP 7

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

6 09-04-2025 **I.A. No. 01 of 2025**

For the reasons and grounds mentioned in the
Interlocutory Application, the same is allowed.

2. Registry is directed to make the necessary changes
in the cause title and amend the prayer portion in the writ
petition.

3. It is the case of the petitioners that the husband of
the petitioner no. 2 was appointed as a PDS dealer way back in
the year 2007 and was continuing to operate the PDS shop till



his death on 03.02.2014. Immediately, thereafter the petitioner no. 2 had made an application seeking appointment on compassionate grounds on 21.02.2014. However the authorities without passing any order immediately have passed the order rejecting the application made by the petitioner after a lapse of more than three years without verifying the facts vide order dated 31.05.2017. In the rejection order, the authorities have taken a stand that as per the provisions of the Control Order, 2016, the PDS dealer should have a minimum qualification of matriculation, whereas the petitioner no. 2 has only passed 9th class. Learned counsel appearing on behalf of the petitioner has stated that the petitioner no. 2 had made an application way back in the year 2014 when there was no requirement that the applicant should be a matriculation pass. The authorities cannot reject the application of the petitioner no. 2 solely on the ground that the petitioner no. 2 does not has requisite qualification under the new Act which has come into force in the year 2016. Learned counsel has stated that the authorities ought to had taken into consideration that at the relevant point of time there was no legal embargo on the petitioner no. 2 to have minimum qualification of matriculation. Learned counsel has therefore prayed this Hon'ble Court to allow the present writ petition.



4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the writ petition. Learned counsel has stated that the committee constituted for the purpose of recommending the case duly taking into consideration the provisions of Control Order, 2016 has rejected the claim of the petitioner no. 2 as she has not having the requisite qualification, i.e., matriculation pass. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present writ petition.

5. Admittedly in the present case, the husband of the petitioner no. 2 died in the year 2014 and immediately thereafter the petitioner no. 2 had made an application seeking appointment as PDS dealer on 21.03.2014 itself, the authorities ought to had passed the orders on her application immediately but they have waited for almost three years before passing the order of rejection on 31.05.2017. The ground taken by the authorities is that as per the Control Order, 2016, the petitioner was not having the requisite qualification of matriculation pass.

6. It is well settled principle of law that the authorities are bound to pass the necessary orders strictly in accordance with law immediately as soon as any application is made but they cannot sit over the application and take their own



sweet time for passing the orders and reject the same on the ground that as per the latest amendment/provisions of law, the petitioner no. 2 is not eligible.

7. Admittedly in this case, there was no legal embargo as such that the petitioner no. 2 should be a matriculation pass, when she has made her application for compassionate appointment, had the authorities passed an order immediately after the application was made, the petitioner no. 2 could have been selected. But in this case due to the lapses committed by the authorities in taking their own sweet time for passing the order the amendment came in force and resulted in rejection. The authorities cannot take advantage of their own lapses in passing the order and reject the application of the applicant on the ground that the amended provision requires the candidate to have the minimum matric pass.

8. Having regard to the above mentioned facts and circumstances, the present writ petition is allowed. The order dated 31.05.2017 passed by the District Selection Committee is set aside. The authorities are directed to consider the application made by the petitioner no. 2 afresh and appoint the petitioner as PDS dealer if she is otherwise eligible. The authorities shall not reject the application on the ground that the petitioner is not



matriculation pass. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.

9. With the above directions, this Writ Petition is allowed to the extent indicated above.

(A. Abhishek Reddy , J)

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