

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23821 of 2018

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Ram Briksha Prasad Son of Late Ramdhari Rout Resident of Village- Gosain
gaon, P. S. - Ghoswari, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Food and Consumer
Protection Department, Government of Bihar, Patna
2. The District Magistrate, Patna.
3. The Sub Divisional Officer, Barh, Patna.
4. The Addl. District Supply Officer, Barh, Patna.
5. The Block Supply Officer, Ghoswari, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Dineshwar Mishra
Ruchi Arya, Advocates

For the Respondent/s : M/s S.Raza Ahmad -AAG 5
Bijoy Kumar Sinha, AC to AAG V

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 12-09-2025

1. The writ petition is filed for the
following reliefs:

“For issuance of
appropriate writ (S), order (S) or
direction commanding the
Respondents to grant the license of
PDS shop in favour of the petitioner,
whose wife who was a PDS dealer has
died on 12.12.2016 and after death of
his wife, the petitioner immediately



applied of PDS licence on compassionate ground as he was fully dependent on the wife, but on account of dilly-dally and prolong tact is of the Respondents, the PDS licence in favour of the petitioner has not yet been issued as such the act of the Respondents is causing serious prejudice to the petitioner and the same infringes the fundamental right conferred under article 21 of the constitution of India.”

2. The brief facts as culled out from the Writ petition are that the wife of the petitioner, namely, Smt. Mamta Prasad, who was a licensee of PDS/fair price shop bearing License No. 148/2016, situated at Village Panchayat - Gosai Gaon, Block - Ghoswari, District - Patna, passed away on 12.12.2016. The petitioner claims that he was wholly dependent on her and has no independent source of income. It is also stated that the



petitioner has two sons both employed in government service and are living separately with their respective families.

3. The petitioner applied for grant of a PDS license on compassionate grounds on 10.01.2017, before respondent No. 3. It is claimed that despite several representations and reminders, no decision has been taken on his application. The petitioner has also brought on record a Memorandum of Partition-cum-Agreement dated 03.04.2017, indicating that he has been left for himself and that his sons have no claim or interest in the matter. It is submitted that the failure of the respondents to consider his application is arbitrary and malafide exercise of power, and is violative of his right to livelihood under Article 21 of the Constitution of India.

4. A counter affidavit was filed on behalf of Respondent Nos. 2 to 5.

5. The counter affidavit disclose that in view of Clause 10 of the PDS Control Order, 2016, if any member of the family of the deceased



licensee is a government servant or holds a post of profit, no family member is entitled to benefit under the compassionate ground provision.

6. It is further contended that the petitioner's two sons are government employees, thereby disqualifying the entire family from claiming a licence under compassionate appointment and Memorandum of Partition dated 03.04.2017 was executed, after the filing of the application and is clearly an afterthought, intended to circumvent the statutory restriction imposed under Clause 10.

7. Heard Learned counsel for the petitioner as well as the Learned counsel for the respondents.

8. Considering the rival submissions of the parties and perusal of the records, the Court finds that it is not in dispute that the wife of the petitioner was a PDS dealer, who died on 12.12.2016 and that the petitioner applied for a license on 10.01.2017 on compassionate ground within the prescribed time.



9. Clause 10 of the PDS Control Order, 2016, imposes a clear restriction that if any family member of the deceased licensee is a government servant, the entire family becomes ineligible to claim the license on compassionate grounds. The petitioner himself has admitted that both his sons are in government service. But he claims, they are living separately. Nevertheless, the provision does not provide any relaxation based on separation or dependency, once a family member is a government servant. Further, the Memorandum of Partition dated 03.04.2017 was executed subsequent to the filing of the application and cannot override the statutory bar imposed under Clause 10.

10. In the facts and circumstances stated above, this Court finds no mala fide or arbitrariness on the part of the respondents in not granting the license, as they have acted within the framework of the applicable rules.

13. Accordingly, the writ petition is dismissed as devoid of merit.



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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.09.2025
Transmission Date	

