

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12375 of 2019

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Mukesh Kumar, Son of Late Mishri Lal Yadav, resident of Village- Padampur,
Gram Panchayat- Bijalpur, Block- Sattar Kataiya, Police Station- Bihra,
District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar 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 Magistrate, Saharsa.
4. The Additional Collector-cum-District Supply Officer, Saharsa.
5. That the Block Supply Officer, Sattar Katiya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, Sr. Advocate
For the Respondent/s : Mr. S.Raza Ahmad (AAG 5)

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 27-01-2025

Re.: I.A. No. 2 of 2024

1. During the pendency of the Writ petition, the petitioner filed I.A. No. 2 of 2024, seeking permission to add the reliefs mentioned in paragraphs 7(I), (II), and (III) of the interlocutory application.

2. I.A. No. 2 of 2024 is, hereby, allowed.
The reliefs mentioned in paragraph No. 7 thereof would form part of the Writ petition.



Re. CWJC No. 12375 of 2019

3. The petitioner, by way of this writ petition, prays for a direction to the District Level Selection Committee/ Licensing Authority to grant a Public Distribution Shop (PDS) license on compassionate grounds following the death of his father, Late Mishri Lal Yadav, who was the PDS license holder at the time of his demise. The petitioner contends that after verification and enquiry it was found that he fulfills all requirement for the grant of a PDS license on compassionate ground, despite frivolous and motivated complaints.

4. The petitioner has also filed I.A. No. 1 of 2019, which was allowed by order dated 16.01.2024, seeking an amendment in the relief portion of the Writ petition in view of subsequent development is as follows:

“That the present Interlocutory Application is being filed seeking permission of the Hon'ble Court to amend the relief prayed in the original Writ Application to the extent of adding



relief to the extent of quashing of the Memo No. 416 dated 21.07.2019 whereby and whereunder the District Selection Committee quashed the earlier decision in its meeting dated 30.07.2018 for recommendation of grant of license to the Petitioner on compassionate ground and to the extent of seeking direction upon the District Selection Committee to proceed as per the recommendation dated 30.07.2018 already made in favour of the Petitioner on the ground that the brother of the Petitioner in government employment is already separate under the partition in the family hence on sympathetic ground taking the spirit of the compassionate grant of PDS license, the Authorities may grant the license to the Petitioner on compassionate ground."

5. As stated supra, the petitioner has also filed I.A. No. 2 of 2024 for the following reliefs:

(I) Issuance of writ in the nature of certiorari to quash the decision of the District Level Committee dated 22.06.2022 to the extent it relates to the Writ Petitioner on the ground of being contrary to



provisions under Clause 10 of the Control Order 2016.

II. To hold and declare that conjoint reading of Clause- 10 read with Clause-11 (VI) only leads to irresistible conclusion that Member of the family in the Government Job supporting the family only disqualifies the grant of PDS License in the family.

III. To hold and declare that disqualifying holder of a Government Post from right to apply for license is connected with availability of source of income in the family hence other member if separate, despite being in Government Job is not disqualified.

6. 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 Mishri Lal Yadav, who held the PDS license until his demise on 08.07.2018. It is submitted that the petitioner applied for the license, and that various public representatives, including the Zila Parishad, Deputy Mukhiya, and Panchayat Samiti Member, supported his eligibility. The Sub-Divisional Officer



- cum Licensing Authority by Letter No. 2057 dated 27.07.2018 forwarded the application of the petitioner to the District Level Selection Committee for consideration. It is submitted on behalf of the petitioner that upon aforesaid recommendation, the District Level Selection Committee considered his case in its meeting dated 30.07.2018 and recommended granting him PDS license. However, a complaint was allegedly filed by one Pankaj Kumar, individuals named in the complaint later denied its validity. Additionally, the petitioner clarified that his elder brother, who is in government service, has been living separately from the family for over six years, and has no financial dependency on them. It is also submitted that a family partition took place among the brothers, and they have been living separately for about six years. The elder brother, though employed in a government job, has no connection or concern with the family affairs. The widow of the deceased PDS dealer resides with the petitioner, who is disabled and the only person able to care



for his mother. It is contended that by Letter No. 3034-2 dated 03.11.2018, the Sub-Divisional Officer, wrote to the District Supply Officer, seeking a fresh decision of the District Level Selection Committee. The Sub-Divisional Officer opined that Clause-10 of the Control Order, 2016, does not permit the grant of a PDS license if a family member is in Government service. It is stated by the petitioner that he later learned that the Additional Collector-cum-District Supply Officer, Saharsa, vide Letter No. 187 dated 06.04.2019 requested for the opinion of Learned Special Public Prosecutor, EC Act, Civil Court, Saharsa.

7. It is contended by the Learned Senior counsel for the petitioner that instead of taking an independent decision, the Additional Collector-cum-District Supply Officer directed the Licensing Authority, vide letter No. 234 dated 10.05.2019 to make a decision in view of the Public Prosecutor's opinion.

8. It is further contended that during the pendency of the Writ petition, the said Committee



reconsidered its earlier recommendation made in the meeting dated 30.07.2018 by holding fresh meeting as contained in Memo No. 416 dated 31.07.2019 (Annexure-I/8) and the Committee had taken the ground that in terms of Clause-10 of the Targetted PDS Control Order, 2016 the grant of such license is not permissible as one member of the family was in Government service.

9. It is submitted on behalf of the petitioner that the bar of Clause -10 of the PDS Control Order, 2016 does not apply in the present case due to partition and separation of the brothers. Furthermore, the widow of the deceased PDS dealer remains under his exclusive care. In support of his contention, the petitioner has placed on record the Panchnama, and information provided under RTI by the Mukhiya and Sarpanch, confirming that a family partition has indeed took place and that the widow of the deceased PDS dealer, Late Mishrilal Yadav resides with the petitioner.

10. It is further submitted on behalf of the



petitioner that during the pendency of the Writ petition, a counter affidavit was filed on behalf of the respondents bringing on record the decision taken in the meeting of the Committee dated 22.06.2022 to the extent it relates to the Writ petitioner at Sl. No. 5 in which the case of the petitioner was rejected in light of Department Letter No. 1922 dated 25.04.2022. It is submitted by the Learned counsel for the petitioner that the Letter No. 1922 dated 25.04.2022 does not debar from the grant of PDS License under Clause 10 of the Control Order 2016. Therefore, petitioner prays to allow this Writ petition.

11. A counter affidavit was filed on behalf of the respondents, stating that the petitioner's father was granted a PDS license and after his father's demise, the petitioner applied for a PDS license on compassionate grounds, and the District Level Committee, Saharsa, selected the petitioner for the license in its meeting on 30.07.2018. It is averred in the counter affidavit that a complaint was received from one Pankaj Kumar and others,



alleging that the petitioner's elder brother is in government service, which makes the petitioner ineligible for the PDS license on compassionate ground. On inquiry, the Block Supply Officer confirmed that the petitioner's elder brother was employed in government (Railway) service. As a result, the Sub-Divisional Officer, in a letter dated 03.11.2018, asked the District Supply Officer to reconsider the selection, citing Clause-10 of the Bihar Targeted Public Distribution System (Control) Order, 2016, which prohibits granting a PDS license on compassionate grounds, if any family member is in government service. In response, the District Selection Committee, Saharsa, subsequently cancelled the earlier recommendation for the grant of the PDS license on 29.07.2019. The matter was then put before the Committee again on 24.01.2022, to seek guidelines from the Department of Food and Consumer Protection, Bihar. Following the department's guidance, the District Selection Committee convened a meeting on 22.06.2022 and unanimously decided to reject



the petitioner's claim for the license, due to his elder brother's Government service. Based on the above circumstances, it is submitted that the petitioner's grievance is not maintainable.

12. Heard the Learned Senior counsel for petitioner as well as the Learned counsel for the State and perused the records.

13. From perusal of entire records, it appears that the crux of the matter remains whether the petitioner is eligible for PDS license on compassionate ground or not?

14. Upon reviewing the entire record and submissions, it is evident that after his father's demise, the petitioner applied for a PDS license on compassionate grounds, and the District Level Committee, Saharsa, initially selected him on 30.07.2018. However, based on a complaint alleging the petitioner's elder brother's government service, made him ineligible and on inquiry, conducted by the Block Supply Officer, the same was confirmed. The Sub-Divisional Officer requested reconsidering the matter, citing Clause-



10 of the Bihar Targeted Public Distribution System (Control) Order, 2016, which prohibits granting a PDS license if any family member is in government service. As a result, the District Selection Committee cancelled the recommendation on 29.07.2019. On 24.01.2022, the matter was referred to the Department of Food and Consumer Protection, Bihar, which confirmed the earlier directive. The District Selection Committee then declined the petitioner's claim for the license on 22.06.2022.

15. Upon perusal of Annexure-B, which is the report of the Block Supply Officer addressed to the Sub-Divisional Officer, Saharsa Sadar, it is clear that the Block Supply Officer stated in the inquiry report that the petitioner's brother, who is in government service, had started living separately from the family after securing a job and had no financial ties to his parents. The family partition took place between the brother of the petitioner, who is in Government service, during the lifetime of the deceased PDS dealer, who was the father,



and there was no connection or bonding with the other family members. The *Panchnama* of the family partition was also produced during the inquiry.

16. The Learned Senior Counsel for the petitioner submits that the primary criterion for granting PDS license on compassionate ground is the financial status of the family of the deceased. The general purpose behind granting a PDS license on compassionate ground is to support a family member who has no one in government service or holding an office of profit. The statutory interpretation should align with the intention of the statute and a welfare-oriented provision must be constituted in a realistic meaning to achieve its purpose.

17. This Court find merit in the submissions of the Learned Senior counsel for the petitioner

18. Therefore, this Court is constrained to set aside the Memo No. 416 dated 31.07.2019 (Annexure I/8) and decision of the District Level Committee dated 22.06.2022 to the extent that it



relates to the Writ petitioner and the matter is remanded to the authority concerned for reconsideration taking into account the *Panchnama* of family partition as well as inquiry report of the Block Supply Officer, Kataiya (Annexure-B) confirming that the brother of the petitioner, who is in Government service is living separately since life time of deceased father.

19. 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

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.02.2025
Transmission Date	

