

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11688 of 2024

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Golu Kumar Singh Son of Chandra Ket Narayan Singh Resident of Village-
Vikarnpur, P.S.- Marhaura District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supply, Government of Bihar, Patna.
2. The Commissioner, Saran.
3. The District Magistrate, Saran.
4. The District Supply Officer, Saran, Chapra.
5. The Sub-Divisional Officer, Marhaura, Saran, Chapra.
6. The Block Supply Officer, Taraiya, Marhaura, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prakash Chandra Jha
For the Respondent/s	:	Mr. Raghwanand, Government Advocate 11
	:	Mr. Prabhat Kumar, AC To GA11

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

3 08-10-2025 Heard the learned counsel for the parties.

The present writ petition has been filed for the
following relief(s):-

“(i) To issue a writ in the nature of Certiorari to quash the memo No.63(M) dated 17.08.2023 in the particular context of this petitioner vide column-34 thereof issued under the authority of District Selection Committee, Saran, meeting held under Chairmanship of District Magistrate, Saran at Chapra, whereby and whereunder the application seeking licence of shop under Public Distribution System on the basis of compassionate ground due to death of father of petitioner, a bonafide licence of the P.D.S. shop, has been rejected.

(ii) To hold and declare that impugned remark rejecting the application of



petitioner under clause-II(VI) of Bihar Control Order 2016 is not applicable in the case of petitioner for the reason that other brothers of petitioners are separated by metes and bound having not at all any interdependency: And existence and survival of petitioner with his mother (the widow of deceased father) is in question due non-consideration of claim of petitioner.

(iii) To direct the respondents to grant the licence of P.D.S. shop under Bihar Control Order to the petitioner on compassionate ground due to death of his father.

(iv) To hold and declare that impugned order of rejection/repudiation of licence for P.D.S. shop to the petitioner on compassionate ground is bad in law arising out of the mandate of Article 14 and 21 of Constitution of India and Bihar Control Order 2016.

(v) To grant any other reliefs for which petitioner is entitled to have.”

3. Learned counsel appearing on behalf of the petitioner submits that the father of the petitioner was a PDS license holder bearing License No. 84 of 2016. That after the death of the father, the petitioner has applied for PDS license under the compassionate appointment however, the authorities have rejected the claim of the petitioner on the sole ground that the brother of the petitioner is in government service. Learned counsel submits that the partition between the brothers of the petitioner and the father took place in the year 2017 itself and all the members of the family are living separately. That the



petitioner alone was taking care of his parent. Learned counsel submits that the authorities without putting the petitioner on any prior show cause notice or seeking any clarification from the petitioner have straightaway passed the impugned order dated 10.08.2023 (Annexure-P/6). Learned counsel therefore, prays this Hon'ble Court to set aside the impugned order and direct the authorities to consider the partition that has taken place among the brothers and pass necessary orders.

4. *Per contra*, the learned counsel appearing on behalf of the respondent-State vehemently opposes the very maintainability of the present writ petition and the prayer sought for by the petitioner. Learned counsel submits that the partition deed is not a registered partition deed and the authorities duly taking into consideration the fact that the brother of the petitioner was in government service has rejected the application of the petitioner for compassionate appointment duly taking into consideration the provisions of the Control Order, 2016. Learned counsel therefore, prays this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the impugned decision taken by the District Level Selection Committee on 10.08.2023 reveals that the authorities have taken into consideration the report of the



Sub-Divisional Officer *vide* Letter No. 1953 dated 05.05.2023 before taking a decision and rejecting the application made by the petitioner. The only ground on which the application is rejected that the brother of the petitioner is in government service and as per the Clause 11(vi) of the Control Order, 2016, the petitioner is not eligible for appointment. However, it is to be noted that the authorities have not sought any clarification from the petitioner. The partition deed on which the petitioner is relying on is dated 12.09.2017 which has been entered between the petitioner's father and other two brothers. That as per the partition deed, the father of the petitioner and also his two brothers are living separately and also divided the property among them. The authorities before rejecting the claim of the petitioner ought to have put the petitioner on notice and granted him an opportunity of filing some documents to show that he is living separately from his brother.

6. Having regard to the above mentioned facts and circumstances, the impugned order dated 10.08.2023 is set aside and the matter is remanded back to the District Magistrate-cum-Chairman of the District Level Selection Committee for taking an appropriate decision after putting the petitioner on notice and calling for his explanation by granting him sufficient time. On



receipt of the notice, the petitioner shall furnish the necessary documents in support of his case and thereafter, a suitable decision taken. If any clarification is sought for, the authorities are free to call for explanation from the petitioner. The entire exercise shall be completed as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of a copy of this order. Any orders passed shall be communicated to the parties.

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

(A. Abhishek Reddy, J)

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