

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13964 of 2024

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1. Nitesh Kumar Gond S/o Late Aseshar Gond resident of Village- Hasua, P.O. Hasua Nautan, P.S- Nautan, District - Siwan.
 2. Chinta Devi wife of late Aseshar Gond resident of Village- Hasua, P.O. Hasua Nautan, P.S- Nautan, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Govt. of Bihar Patna.
2. The District Magistrate-Cum Chairman PDS Selection Committee Siwan.
3. The District Supply Officer cum Secretary PDS Selection Committee, Siwan.
4. The Sub-divisional Officer-Cum Licensing Authority Sadar, District Siwan.
5. The Block Supply Officer Jeeradai, District Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Deepak Kumar, Adv.
For the Respondent/s	:	Mr. Sitaram Yadav, GP-16
		Mr. Rakesh Kumar Shrivastava, AC to GP-16

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

2 17-03-2025 Heard the learned counsel for the parties.

2. This writ petition has been filed for the following
relief(s):-

*“That this petition is being filed for
issuance of writ of appropriate nature, order or
direction setting aside order contained in letter
no. 474 dated 20.5.22 (Annexure- 10) issued
under signature of District Supply Officer Siwan
returning recommendations and records of the
petitioner (Nitesh Kumar Gond) to the Sub-
divisional Officer Siwan Sadar and intimating
that despite orders of the Hon’ble High Court*



Patna dt. 17.12.2018 in CWJC 16355/2016 (Annexure -5); the District Selection Committee, Siwan did not consider it appropriate for taking any decision it for not getting application by the applicant no.2 in time and sending her application and recommendations by his office after 3 years.

The petitioners also pray for an order/direction to the respondent District Selection Committee Siwan for reconsidering grant of Retail License of Public Distribution System to the petitioner no. 1 on Compassionate ground for merits for which the Sub-divisional Supply Sadar Division Siwan recommended petitioner's case for grant of PDS license on compassionate ground finding him suitable as contained in order proceeding no. 32 dated 20.4.2022 (Annexure-9)."

3. Learned counsel for the petitioner has stated that the father of the petitioner No. 1 was the PDS license holder and he has expired on 21.06.2005 thereafter the mother (petitioner No. 2) of the petitioner has approached this Hon'ble Court by way of C.W.J.C. No. 16355 of 2016 and this Court vide order 17.12.2018 has directed the petitioner No. 2 to give a suitable representation ventilating his grievance within a period of four weeks from the date of the order. The said CWJC was disposed of on 17.12.2018. Learned counsel for the petitioner states that



the petitioner no. 2 has thereafter submitted an application on 21.06.2019 but the copy of the same has not been annexed to the present writ petition. Learned counsel relies on the letter dated 30.08.2019 to contend that the petitioner no. 2 has in fact given a representation on 26.01.2019. Learned counsel has stated that though the inquiry report has been called for by the District Collector and the same is in favour of the petitioner, the said inquiry report has been furnished after a gap of more than three years. Learned counsel has stated that the authority concerned without going into the merits or taking the inquiry report into consideration has passed the impugned order rejecting the application made by the petitioner on the ground of delay. Learned counsel has, therefore, prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authority concerned for passing orders afresh duly taking into consideration the enquiry report dated 11.03.2022.

4. Per contra, the learned counsel appearing on behalf of the respondents State has vehemently opposed the present writ petition. Learned counsel has stated that the petitioner is not entitled for any relief from this Court as they have approached the authorities after a lapse of more than eleven years even if the case of the petitioner is to be considered in the



light of the orders passed by this Court in C.W.J.C. No. 16355 of 2016, the petitioner No. 2 has approached the authority after the time period granted by this Court. Learned counsel has stated that the petitioner No. 1 who is only aged 21 years cannot seek compassionate appointment of the PDS license of his father who is admittedly expired in the year 2005. Learned counsel has stated that the Clause 10 of the Bihar Targeted Public Distribution System (Control) Order, 2016 states that the licensee should be aged under 58 years and the application should be made within a period of two years from the date of death of the licensee.

5. In order to the issue involved in the present case, it is necessary to reproduce the Clause 10 of the Bihar Targeted Public Distribution System (Control) Order, 2016 which reads as under:

“In case of death of a fair price shop’s licensee under the age of 58 (fifty eight) years, his shop may be allotted in order of priority to his/her wife/husband, son unmarried daughter, daughter-in-law, and widow of his son. If there are out of these more than one dependant, all the other are required to forsake their claim in favour of one through an affidavit. The application in this regard shall be entertained, if submitted within two years from the date of death of the licensee by his dependent. If granted, such a fair price shop license shall be a new license,



and it shall be permissible for further compassionate ground license, but if any member of the family of the deceased licensee is a government servant or holds a post of profit in the government, such a family shall not get benefit of compassionate ground.”

6. However, in this case the petitioner No. 1 has made an application on 05.03.2022 and even the application made by the petitioner No. 2 is also beyond the period granted by this Hon'ble Court and, therefore, the impugned order does not require any interference by this Hon'ble Court and the same is in accordance with law.

7. Admittedly in this case the petitioner no. 2 has made an application for the first time on 26.01.2019 after the disposal of the case by this Hon'ble Court on 17.12.2018. Even if the same is considered as the cause of action for filing a said application, the time period granted by this Court was only four weeks whereas the petitioner no. 2 has filed it beyond the period of four weeks. If the date of death is to be taken into consideration, the petitioner no. 2 ought to had filed an application in the year 2007 itself. Either way the applications made by the petitioner Nos. 1 and 2 are beyond the period of limitation prescribed under Clause 10 of the Bihar Targeted Public Distribution System (Control) Order, 2016. This Court



does not find any merit in the present writ petition which warrants any interference by this Court.

8. The present writ petition is accordingly dismissed.

(A. Abhishek Reddy , J)

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