

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19291 of 2019

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Mamta Kumari D/o Ashok Sao W/o Sushil Kumar, R/o Naya Bazar, Dalpatti
Lakhisarai, Ward No. 24, P.S.- Lakhisarai, Distt.- Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Food and Consumer Protection Department, Old Secretariat, Patna
2. The Secretary, Food and Consumer Protection Department, Old Secretariat, Patna
3. The District Magistrate-cum-Collector-cum-Chairman District Selection Committee, Lakhisarai, at Lakhisarai
4. The S.D.O. Lakhisarai at Lakhisarai

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s N.K.Agrawal, Sr. Advocate Diksha Kumar Kumar Rajdeep Amresh Kumar Sinha, Advocates
For the Respondent/s	:	Mr.Arvind Ujjwal (SC4)

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 04-03-2025

1. The writ petition is filed for setting aside the part proceedings of the meeting dated 19/12/2018 of the District Selection Committee, headed by respondent No. 3, specifically proceeding No. 14 with regard to Ward No. 24, by which the claim of the petitioner for the issuance of a license for a PDS shop in Ward No. 24, Lakhisarai, was rejected on the sole ground that the petitioner's mother-in-law is a moving



Kerosene Oil vendor. Further, the petitioner seeks a direction to grant the license for the PDS shop in Ward No. 24, Lakhisarai.

2. The brief facts of the case, as culled from the petition, are that the petitioner applied for the appointment of a PDS dealer in Ward No. 24, submitting all the required documents as mentioned in the advertisement. According to the petitioner, she was duly qualified, and her name was placed at Sl. No. 1. On 19/12/2018, a meeting was held by the District Selection Committee, Lakhisarai, headed by its Chairperson, the District Magistrate of Lakhisarai (respondent No. 3). The writ petition states that from the minutes of the meeting on 19/12/2018, it would be clear that the petitioner's application was rejected solely on the ground that the petitioner's mother-in-law is a licensee of a moving Kerosene Oil vendor.

3. It is further submitted that the mother-in-law of the petitioner was granted a license under the Bihar Trade Articles License Unification Order 1984 (License No. 1/2005), but



the petitioner's mother-in-law was never granted any license for a PDS shop.

4. The Learned Senior counsel for the petitioner Shri N.K.Agrawal submitted that it is not in dispute that under Clause 11 of the Bihar Targeted (Control) Order 2016, there is a restriction on the appointment of a PDS dealer if the mother-in-law is a PDS dealer. However, in the present case, mother-in-law of the petitioner is not a PDS dealer. It is further submitted that the petitioner and her mother-in-law have been living separately for a long time, as evident from the certificate issued by a member of the Nagar Parishad (Annexure-4).

5. The Learned Counsel counsel for the petitioner further submitted that the District Selection Committee erred in rejecting the petitioner's application on two grounds: first, the petitioner's mother-in-law is not a PDS dealer, and second, the petitioner and her mother-in-law are living separately and are no longer members of a joint family.



6. A counter-affidavit was filed by respondents Nos. 3 and 4. In the counter-affidavit, it is stated that the meeting of the District Selection Committee, Lakhisarai, for the selection of a PDS dealer was held on 19/12/2018. The Committee found that the petitioner's mother-in-law is a moving Kerosene Oil Vendor and, therefore, comes within the definition of a joint family as defined in Clause 11 of the Bihar Targeted Public Distribution (Control) Order 2016. Based on this, the Committee decided not to select the petitioner. A copy of Clause 11 of the Bihar Targeted Public Distribution (Control) Order 2016 is also brought on record as Annexure R/A.

7. In response to the statement made in Para No. 9 of the Writ petition, the answering respondents submit that it is a matter of record. However, the Learned counsel for the respondents contended that the term "joint family," as defined in Clause 11 of the Bihar Targeted PDS (Control) Order 2016, refers to a family that includes father, mother, brother, brother's wife, husband, wife, son,



son's wife, and stepmother. Since the petitioner's mother-in-law is a moving Kerosene Oil Vendor, she is not entitled to obtain a PDS license. In reply to the statement made in Para No. 13 of the Writ petition, the answering respondents submit that Clause 11 of the Bihar Targeted PDS (Control) Order, 2016, defines a joint Hindu family and does not address the issue of separation among members of a joint family. In reply to the statement made in Para No. 14 of the Writ petition, the answering respondents submit that the District Selection Committee, Lakhisarai, after considering all relevant facts and materials, made an appropriate decision regarding the petitioner. Furthermore, in response to the statement made in Para No. 15 of the Writ petition, it is submitted that, in view of Notification No. 3223 dated 21/07/2022 from the Food & Consumer Protection Department, Government of Bihar, the petitioner has an alternative remedy to file an appeal before the Divisional Commissioner, Munger Division, Munger, against the decision of the District



Selection Committee.

8. Heard the Learned Counsel counsel for the petitioner as well as the Learned counsel for the State and perused the record.

9. For better appreciation of the facts, Clause 11 of the Bihar Targeted PDS (Control) Order 2016 is quoted hereinbelow:

“11. Disqualification of getting a fair price shop license

(i) No fair price shop license shall be granted to more than one member in a joint family. Father, mother, brother, brother's wife, husband, wife, son, son's wife and step brother shall come in the definition of the family

(ii) A mukhia, a sarpanch, a panch, a ward member, a member of a panchayat samiti, a member of a district board, an MLA, a Member of Legislative Council, a member of Parliament, and an elected member of municipal bodies shall not be eligible for allotment of a fair price shop during his tenure as such capacity.

iii) An owner of a flour mill and his near relatives shall not be allotted a fair price shop.



iv). A minor or a lunatic or an insolvent shall not be allotted a fair price shop.

(v) A person finally convicted by the court under the Essential Commodities Act, 1955 or in any other criminal case shall not be allotted a fair price shop.

(vi) A person holding a post of profit in the Government shall not be allotted a fair price shop.”

10. The Learned Counsel counsel for the petitioner contended that the petitioner’s application was rejected solely on the grounds that her mother-in-law is a licensee of a moving Kerosene Oil vendor. It was further argued that the petitioner’s mother-in-law was granted a license under the Bihar Trade Articles License Unification Order, 1984 (License No. 1/2005) but she was never granted a license for a PDS shop. The Learned Counsel counsel also stated that, under Clause 11 of the Bihar Targeted (Control) Order 2016, there is a restriction on granting a PDS license to a daughter-in-law if the mother-in-law is a PDS dealer. However, in the present case, the petitioner’s mother-in-law is not a PDS dealer.



Additionally, it was submitted that the petitioner and her mother-in-law have been living separately for a long time, as evidenced by a certificate issued by a member of the Nagar Parishad.

11. At this juncture, the Learned Senior counsel for the petitioner relied on the judgment passed by this Bench in **CWJC No. 13096 of 2016 (Renu Lata Kumari vs. The State of Bihar)**, wherein similar issues were involved. The Hon'ble Court had been pleased to allow the aforesaid writ petition, and accordingly, the petitioner prayed that since this matter is squarely covered by the aforesaid judgment, this writ petition may also be disposed of on the same terms and conditions.

12. In view of the fact that this matter is squarely covered by the aforesaid judgment, the Writ application is disposed of, in light of the judgment passed in **Renu Lata Kumari (supra)**. Accordingly, this Court, hereby, sets aside the proceedings of the meeting dated 19.12.2018 of the District Selection Committee, chaired by



respondent No. 3, specifically regarding the decision taken under proceeding No. 14 concerning Ward No. 24, Lakhisarai.

13. The respondents are directed to consider the material submitted by the petitioner and re-evaluate the petitioner’s candidature for appointment as a PDS dealer for Ward No. 24.

14. With the aforesaid observation, this Writ application is disposed off.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.03.2025
Transmission Date	

