

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17318 of 2023

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Shobha Devi Wife of Raju Kumar @ Raju Jadav, Resident of Village-Bhadsa,
Police Station-Amjhor, Block-Tilauthu, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumer Affairs, Government of Bihar, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. The District Magistrate-cum-Chairman, District-Rohtas at Sasaram.
4. The Sub Divisional Officer-cum-Licensing Authority, Dehri, District-Rohtas.
5. The Block Supply Officer, Tilauthu, District-Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Tiwary
For the Respondent/s : Mr. Arvind Ujjwal (Sc4)

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

11 08-07-2025

Heard the learned counsel for the parties.

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

“(i) For issuance of a writ in the nature of certiorari setting aside the impugned order bearing Memo No. 767 dated 06.09.2021 so far petitioner is concerned issued under the signature of Respondent District Magistrate, Rohtas at Sasaram in capacity of a Chairman of the District Level Selection Committee whereby the claim of the petitioner for selection as P.D.S. Dealer on compassionate ground has illegally been rejected on the ground that the claim of the petitioner is time barred in view of Clause 10 of Bihar Targeted P.D.S. (Control) Order 2016 without taking in to consideration the recommendation made from the level of Respondent Block supply Officer as well as Sub Divisional Officer-cum-Licensing Authority who have admitted that due to non communication about



not having requisite educational qualification to be selected as P.D.S. dealer to the husband of the petitioner who had applied in time for selection on compassionate ground and under such circumstance delay has caused in submission of the application by the petitioner in capacity of daughter-in-law of the deceased dealer.

(ii) For a setting aside the impugned order dated 11.03.2022 passed by Respondent Collector in Supply Appeal case No. 22 of 2021 under which appeal is said to be not maintainable on the ground that against the decision of the District Selection Committee headed by the District Magistrate appeal cannot be entertain by the same authority.

(iii) For setting aside the order dated 27.04.2023 passed in BTPDS Control Revision No. 66 of 2023 passed by the learned Divisional Commissioner, Patna Division, Patna whereby and where under without taking in to that the petitioner's applied for Dealer on compassionate ground has illegally rejected on the ground that claim of the petitioner is time barred in view of Section 10 of the Act, where neither any ground of the petitioner has been mentioned in the Revisional order only on pre-emption her petition has been rejected, whereas delay is not intentional rather circumstantial it was admitted by the Respondent authority.

(iv) For issuance of appropriate direction upon the Respondent concerned to reconsidered the claim of the petitioner for grant of P.D.S. licence to the petitioner on compassionate basis in view of Clause 10 as delay in filing application is not intentional rather circumstantial as admitted by the Respondent authority.

(v) And any other order/orders, direction/directions, writ/writs which may be petitioner entitled to."

3. It is the case of the petitioner that the father of the petitioner who was appointed as a PDS dealer died on 01.07.2016 at the age of approximately 42 years thereafter, his son i.e., the husband of the petitioner herein, has applied under compassionate appointment on 30.07.2016 i.e. well within the



stipulated time. However, the authorities have passed the order of rejection only on 13.07.2018 rejecting the application of the husband of the petitioner on the sole ground that he does not have the requisite qualification i.e., he is not a matric pass. Thereafter, the petitioner has filed the application to consider her appointment on compassionate ground on 28.02.2019 (Annexure-P/3). The said application has been rejected on 06.09.2021 (Annexure-P/5) by the District Magistrate concerned solely on the ground that the application filed by the petitioner is at belated stage and contrary to the provisions of the Control Order, 2016 more specifically, Clause 10. Though the petitioner has preferred a revision against the order of rejection passed by the District Magistrate dated 06.09.2021, the revisional authority also did not appreciate the contentions of the petitioner (Annexure-P/6) and dismissed the revision.

4. Learned counsel appearing on behalf of the petitioner has stated that the authorities have not taken into consideration the fact that the husband of the petitioner who is the son of the PDS dealer had made his application well within the time, however, the authorities have taken nearly two years to decide his application and the same was rejected only on 13.07.2018. Had the authorities taken a decision within the



reasonable time, the petitioner could have made her application well within a time. That the petitioner cannot be blamed for the lapses committed by the authorities in taking their own time to decide the application of her husband. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned orders and remand the matter back for fresh reconsideration, duly taking into consideration the fact that the application made by the husband of the petitioner was rejected nearly after two years.

5. *Per contra*, the learned counsel appearing on behalf of the respondent-State has vehemently opposed the very maintainability of the present writ petition and stated that the authority duly taking into consideration the fact that the application made by the petitioner was after a period of two years and the same is contrary to the provisions stipulated under Clause 10 of the Control (Order), 2016, have rightly rejected the said application. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. A reading of the impugned order passed by the authority reveals that the authority has rejected the application of the petitioner solely on the ground that the said application is not within the stipulated time as per Clause 10 of the Control



Order, 2016. However, it is to be noted that on the earlier occasion the husband of the petitioner herein (who is son of the PDS Dealer) had made his application for appointment under compassionate appointment within one month from the date of death of his father. However, for reasons best known to the authorities, they have taken nearly two years for passing the order of rejection dated 13.07.2018. The authorities in their correspondence admit about the above said lapses however, the same has not been considered by both the appellate as well as the revisional authority while rejecting the application made by the petitioner.

7. As rightly pointed out by the learned counsel for the petitioner, the petitioner cannot be blamed for the delay in passing the orders on the application made by her husband. Had the authorities rejected the application within reasonable time, the petitioner could have applied thereafter within the stipulated time as mentioned in Clause 10. Having regard to the facts of the case, this Court is of the opinion that the ends of justice would be met if the impugned orders are set aside and the matter remanded back to the authority for considering the application of the petitioner duly taking into consideration the above facts and circumstances.



8. Having regard to the same, the impugned orders dated 06.09.2021, 11.03.2022 & 27.04.2023 are all set aside. The matter is remanded back to the District Magistrate (i.e., respondent No. 03 herein) for considering the application of the petitioner for compassionate appointment and passing orders afresh duly taking note of the observation made by this Court. The authority shall endeavor to dispose of the matter as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. It is needless to mention that before passing any orders, the petitioner shall be given an opportunity of hearing. Any orders passed shall be communicated to the petitioner.

9. With the above directions, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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