

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.413 of 2024

=====

Parmeshwar Sah S/o Late Lakhindra Sah, Resident of Village, Post and Panchayat P.D.S. Dealer Panchayat Damodarpur, P.S. - Kanti, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary Food and Civil Supply Department Govt. of Bihar, Patna.
2. Divisional Commissioner, Tirhut Division Muzaffarpur.
3. District Level Section Committee, Chairman Cum Collector-Cum-District Magistrate, Muzaffarpur.
4. Sub-Divisional Magistrate, West, Muzaffarpur.
5. District Supply Officer, Muzaffarpur.
6. Block Development Officer, Sakara.
7. Block Supply Officer, Incharge Block Supply Officer, Kanti, Muzaffarpur.
8. Anchal Adhikari Kanti, P.S. - Kanti, District - Muzaffarpur.
9. Block Development Officer, Kanti, P.S. - Kanti, District - Muzaffarpur.
10. Chunnu Kumar, S/o Late Ayodhya Sah, Resident of Village - Damodarpur, P.S. - Kanti, District - Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Shankar Kishore Shahi
For the Respondent/s : Mr.Standing Counsel (7)

=====

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

Date : 05-02-2025

Heard the learned counsel for the parties.

The present writ petition has been filed for the following

relief(s):-

“1. That this is an application for issuance of a writ in the nature of certiorari for quashing the order dated 09.10.2023 passed in P.D.S. Appeal No. 69/2023 passed by Respondent No.-2 Divisional Commissioner, Tirhut Division, Muzaffarpur whereby and where under



he was pleased to cancel the selection of the petitioner which is selected by the Respondent No.-3 District Level Selection Committee on the basis of Rule 11 (i) Bihar Targeted Public Distribution System (Controlee) order, 2016 without consideration that the petitioner is separated since long from his brother and resides at Village+P.O. +Panchayat- Damodarpur, P.S. Kanti, District- Muzaffarpur respondents authorities on enquiry petitioner is separated after death of father i.e. petitioner family is not joint family and petitioner is residing permanently at Damodarpur Panchayat since 2015. It is also prayed to quash the order vide memo 1423 dt. 27.10.2023 passed by the respondent no. 4 Sub Divisional Magistrate West, Muzaffarpur whereby and where under he was pleased to cancel the licence as well as monthly allotment of the petitioner. It is also prayed that to direct the respondent authorities to restore the PDS licence of the petitioner and to continue monthly allotment during the pendency of writ petition.

It is further prayed to stay the operation of the impugned order dt. 09.10.2023 and 27.10.2023 (Annexure-1) during the pendency of this writ petition.”

3. It is the case of the petitioner that he was selected as PDS dealer by the District Level Selection Committee and thereafter he has been continuing to do so. That the respondent No. 10 herein aggrieved by the selection of the petitioner has preferred an appeal before the Divisional Commissioner being Appeal No. 69 of 2023. The Divisional Commissioner has passed the



impugned order dated 09.10.2023 setting aside the selection of the petitioner as a PDS dealer.

4. Learned counsel appearing on behalf of the petitioner has stated that the order passed by the Divisional Commissioner is bereft of reasons. That the authority without taking into consideration the provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016 and in derogation of the law laid by this Hon'ble Court, in a cryptic and mechanical manner has passed the order which is impugned in the present writ petition. Learned counsel has stated that the authority did not take into consideration the fact that the petitioner has been separated from the joint family and residing separately at Damodarpur since the last more than ten years. That the reasoning given by the authority that the sister-in-law of the petitioner is a PDS and therefore, the petitioner is not eligible to be appointed as a PDS dealer cannot be a ground for setting aside the selection of the petitioner wherein there is separation in the family. Learned counsel has stated that though a report has been submitted by the Block Development Officer with regard to the status of the petitioner and that of his sister-in-law, the said report has not been taken into consideration by the authority concerned. Further, learned counsel has relied on the order of this Hon'ble Court



passed in CWJC No. 25075 of 2019 dated 17.09.2021 to support his case. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition.

5. *Per contra*, the learned counsel appearing on behalf of the respondent-State as well as the private respondent have vehemently opposed the very maintainability of the present writ petition and stated that the authority duly taking into consideration the fact that the sister-in-law of the petitioner was having a PDS license in her name and that the provisions of the Section 11 of the Control Order, 2016 clearly place an embargo on another member of the same family from having another PDS license. That there was no proof that the petitioner and the sister-in-law had separated and were living separately in two different villages. The contention of the petitioner that the authority did not take into consideration the factual aspect is without any legal basis. Learned counsels have therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. The learned counsel appearing on behalf of the private respondent while adopting the submissions made by the counsel for the respondent-State has stated that the voter list of the village reveals that the petitioner's name is still in existence on the electoral rolls of the village. Therefore, the contention of the



petitioner that he is living separately in the Damodarpur village is without any legal basis and factually wrong.

7. A perusal of the impugned order passed by the Divisional Commissioner vide order dated 09.10.2023 reveals that the authority duly taking into consideration the submissions made by both the private respondent as well as the petitioner herein has set aside the selection of the petitioner solely on the ground that the sister-in-law of the petitioner is having another PDS license. Though the report of the SDO was available with the Divisional Commissioner, he has not taken the same into consideration and set aside the selection made in favour of the petitioner.

8. A perusal of the report of the Block Supply Officer, Kanti who has investigated and submitted the report to the Sub-Divisional Officer, West Muzaffarpur to Letter No. 227 dated 02.12.2020 clearly mentioned about the fact that the petitioner has separated from his brothers and living separately in Damodarpur since the last more than ten years. That he is earning and living separately along with his family in Damodarpur. Further, it is also stated that the family of the petitioner is not a joint family and has been permanently living in the Damodarpur Gram Panchayat since the year 2015 but the said report has not been taken into



consideration. This Hon'ble Court while passing the judgment in CWJC No. 25075 of 2019 dated 17.09.2021 has held as under;

“To deny the privilege of grant of license for running a fair price shop under the BTPDS Control Order, there must be a finding based on cogent material that the applicant for such license lives in jointness with his family member/members already having license for running a fair price shop.”

9. Having regard to the above mentioned facts and circumstances and duly taking note of the fact that the authority except stating that the submissions/ explanation made by the petitioner is not acceptable has not given any finding regarding the joint-ness or separation of the petitioner from his brothers.

10. Having regard to the same, the impugned order dated 09.10.2023 is set aside, the matter is remanded back to the authority concerned for passing orders afresh duly taking into consideration the report filed by the Block Supply Officer and also the documents filed by the petitioner. It is needless to mention that before passing any orders, the petitioner as well as the private respondent shall be put on notice and given an opportunity of hearing. Any documents filed by both the parties shall be taken into consideration. The authority shall pass a reasoned order giving the reasons for accepting or rejecting the documents filed by the parties. 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.

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

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.04.2025.
Transmission Date	NA

