

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3202 of 2023

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Mintu Devi Wife of Ranjit Kumar Pandey, D/o Late Ram Ganesh Thakur,
Resident of Village- Dharampur Ward No. 01, P.S. Siwaipatti, District-
Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply,
Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Sub Division Officer, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shanti Bhushan Singh
For the Respondent/s : Mr.S. Raza Ahmad (Aag 5)

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 20-07-2026

1. The petitioner has filed the Writ
petition for the following reliefs:

*“(i) For quashing the memo
no. 37, dated 04.08.2021 passed by the
District Magistrate, Muzaffarpur.*

*ii). For direction to the
Respondents issue a P.D.S. License in
the favour of the petitioner on the basis
of compassionate ground.*

*(iii) For any other relief/
reliefs which is entitled to the petitioner*



in accordance with law."

2. The brief facts culled out of the Writ petition is that the petitioner's father was a licensed P.D.S. dealer holding Licence No. 05/91 (old) and Licence No. 01/08 (new), who operated the fair price shop in accordance with the rules of the Government of Bihar. The petitioner's mother died on 14.10.2015 and her father subsequently died on 23.02.2017. The petitioner claims to be the only surviving legal heir of her parents.

3. After the death of her father, the petitioner applied for grant of the P.D.S. dealership on compassionate grounds by submitting all the prescribed documents, including the recommendations of the local authorities, certificates relating to her residence, identity and eligibility. She claims that she satisfies all the eligibility criteria and is entitled for PDS dealership.

4. The petitioner's application, however, was rejected by the District Magistrate, Muzaffarpur, vide Memo No. 37 dated 04.08.2021, solely on the ground that she is a married daughter



of the deceased P.D.S. dealer. Thereafter, she submitted representations before the authorities seeking reconsideration of her claim, but no relief has been granted.

5. Aggrieved by the rejection of her application, the petitioner has approached this Court seeking quashing of the aforesaid order and sought for a direction upon the respondents to consider her claim for grant of the P.D.S. dealership on compassionate grounds.

6. The Learned counsel for the petitioner submits that the impugned order rejecting the petitioner's claim merely on the ground that she is a married daughter is arbitrary, illegal and violative of Article 14 of the Constitution of India.

7. It is submitted that the petitioner is the only surviving legal heir of the deceased P.D.S. dealer and has fulfilled all the prescribed eligibility conditions for grant of the dealership. Her application could not have been rejected solely on the basis of her marital status.

8. The Learned counsel further submits



that the General Administration Department, Government of Bihar, by Letter No. 16973 dated 10.12.2014, has recognized the eligibility of married daughters for compassionate appointment. Therefore, there is no rational basis to deny the petitioner the benefit of compassionate allotment of the P.D.S. dealership merely because she is a married daughter.

9. It is further argued that the object of compassionate allotment is to provide financial support to the family of the deceased licensee. The petitioner, having no other source of livelihood and being the only legal heir, is entitled to the benefit of the compassionate policy. The rejection of her claim defeats the very purpose of the scheme.

10. On the aforesaid grounds, the Learned counsel for the petitioner prays that the impugned Memo No. 37 dated 04.08.2021 be quashed and the respondents be directed to reconsider the petitioner's claim for grant of the P.D.S. dealership on compassionate grounds in accordance with law.

11. A counter affidavit was filed on behalf



of the respondents contending that the writ petition is not maintainable either in law or on facts and is liable to be dismissed.

12. It is contended that the petitioner has failed to produce any reliable document to establish that she is the sole surviving legal heir of the deceased P.D.S. dealer. The respondents also dispute the petitioner's claim regarding her residence and her assertion that she is the only successor of her deceased father.

13. The Learned counsel for the respondents further submits that under Clause 10 of the Bihar Targeted Public Distribution System (Control) Order, 2016, compassionate appointment of a P.D.S. dealer is confined only to the categories specifically mentioned therein, namely, the spouse, son, unmarried daughter, daughter-in-law and the wife of the deceased son of the deceased licensee. Since the petitioner is a married daughter, she does not fall within the categories of eligible dependants and, therefore, her claim was rightly rejected by the District Magistrate vide



Memo No. 37 dated 04.08.2021.

14. It is further submitted that the letter dated 10.12.2014 issued by the General Administration Department pertains to compassionate appointment in Government service and has no application to grant of a P.D.S. dealership, which is governed exclusively by the provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016.

15. The Learned counsel for the respondents also disputes the petitioner's claim that she has no independent source of income and submits that the petitioner has not established such a claim by any cogent material. It is further contended that the petitioner has an alternative remedy available under law and, therefore, the present writ petition is not maintainable.

16. On the aforesaid grounds, the Learned counsel for respondents prays for dismissal of the writ petition.

17. Having heard the Learned counsel for the parties and upon perusal of the materials



available on record, this Court finds that the petitioner's claim for compassionate allotment of the Fair Price Shop licence has been rejected solely on the ground that she is a married daughter and, therefore, does not fall within the category of dependants specified under Clause 10 of the Bihar Targeted Public Distribution System (Control) Order, 2016.

18. The records disclose that the authorities have not disputed the petitioner's claim that she had been residing with the deceased licence holder, was assisting him in running the Fair Price Shop and had applied within the prescribed period. The rejection of her claim rests exclusively upon the interpretation of Clause 10 of the Control Order.

19. For proper appreciation of the controversy, Clause 10 of the Bihar Targeted Public Distribution System (Control) Order, 2016, is reproduced hereinbelow:

**“ 10. A fair price shop license
on Compassionate Ground.**



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 dependent, 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."

20. Per contra, the petitioner has placed reliance upon the recent decision of the Hon'ble Supreme Court in **Kulsum Nisha vs. State of U.P. & Others**, reported in **2026 SCC OnLine SC 1059**, wherein the Apex Court has held in paragraph 23 as follows:



"We are, therefore, of the considered view that the exclusion of married daughters from the definition of "family" fails the test of reasonable classification and is manifestly arbitrary. The distinction created by Paragraph IV(10) of the G.O. lacks any intelligible differentia having a rational nexus with the object of the scheme. The exclusion is founded solely upon marital status and gender stereotypes and consequently, violates Articles 14 and 15(1) of the Constitution of India."

21. This Court finds that neither the District Compassionate Committee nor the Revisional Authority has considered the effect, if any, of the legal principles laid down by the Hon'ble Supreme Court on the interpretation and application of Clause 10 of the Bihar Targeted Public Distribution System (Control) Order, 2016. The impugned orders proceed only on a literal reading of the provision without examining whether the constitutional principles governing equality and non-discrimination, as explained by the Hon'ble Supreme Court, have any bearing on



the petitioner's claim.

22. Since the said issue has not been examined by the competent authority in the light of the law relied upon by the petitioner, this Court is of the view that it would not be appropriate to undertake such an exercise for the first time in the present writ proceedings. The competent authority ought to have an opportunity to consider the petitioner's case afresh after taking into account the statutory provisions as well as the subsequent declaration of law by the Hon'ble Supreme Court.

23. Accordingly, without expressing any final opinion on the merits of the rival contentions or on the applicability of the aforesaid judgment to the facts of the present case, this Court considers it appropriate to remit the matter to the Licensing Authority for fresh consideration. The Licensing Authority shall independently examine the petitioner's claim in accordance with law, keeping in view the provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016 and the judgments relied upon by the petitioner, and shall



pass a reasoned and speaking order after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

24. The writ petition stands disposed of with the aforesaid observations and directions.

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

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(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.07.2026
Transmission Date	

