

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4933 of 2018

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Tarranum Khatoon, Wife of Late Shaukat Ali, resident of Village- Chak
Abdullah, Police Station- Sakara, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Department of Food & Consumer Protection, Government of Bihar, Patna.
2. The Under Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The Chairman, District Level Selection Committee, Muzaffarpur.
4. The Collector-cum- Chairman, District Level Selection Committee, Muzaffarpur.
5. The Sub Divisional Officer (West), Muzaffarpur.
6. The Block Supply Officer, Kanti, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar, Advocate.
Mr. Pranav Ranjan, Advocate.
For the Respondent/s : Mr. Arvind Ujjwal, SC 4.

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

14 02-02-2026 Heard learned counsel for the parties.

2. The present Writ Petition has been filed for the
following reliefs:-

“That the present writ application is being filed on behalf of the petitioner for quashing of the District Level Selection Committee Proceeding dated 22.11.2017 so far as the petitioner is concerned by which the application of petitioner for grant of appointment of PDS Dealer on compassionate ground has been rejected on the ground that the



petitioner is not Matriculate.”

3. It is the case of the petitioner that the husband of the petitioner died on 29.05.2015 and the petitioner has filed an application seeking compassionate appointment on 03.02.2016. Learned counsel submits that the authority has rejected the application made by the petitioner solely on the ground that the petitioner is not a matriculate pass as per the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as the ‘Control’ order) which came into effect from March, 2016. Learned counsel submits that the impugned order dated 22.11.2017 passed by the authority is contrary to the Judgment of this Hon’ble High Court passed in LPA No. 299 of 2020 dated 15.03.2024 and also the law laid down by the Hon’ble Supreme Court. Learned counsel submits that the provisions of the law as it stood on the date of the death of the incumbent and the date of application should be taken into consideration while dealing with the said application made for compassionate appointment and not the provisions of the Control order, 2016. Learned counsel submits that there is no requirement that an applicant to PDS dealer should be a matriculate pass prior to the coming into force of the Control order, 2016. Learned counsel, therefore, prays this Hon’ble Court to allow the present writ petition setting aside the



impugned order dated 22.11.2017 and direct the respondent-authorities to consider the case of the petitioner afresh duly taking into consideration the law laid down by this Hon'ble Court as well the Hon'ble Supreme Court.

4. Per contra, the learned counsel appearing on behalf of the Respondent-State has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the application of the petitioner was considered strictly in accordance with the provisions of the Control order, 2016 which mandates that the applicant to the PDS shops should be a matriculate pass besides other criteria. Learned counsel submits that the law which is prevalent as on the date of considering the application will be taken into consideration and not the date of death of the PDS dealer. Learned counsel has also submitted that the State of Bihar has issued certain instructions vide Memo No. 4842 dated 25.09.2017 (Annexure P/2) wherein it has been clearly mandated that any application made after coming into force of the Control order, 2016 shall be dealt with in accordance with the said provisions only. Learned counsel, therefore, prays this Hon'ble Court to dismiss the present writ petition.

5. A Division Bench of this Hon'ble Court in LPA No.



299 of 2020 dated 15.03.2024 under similar circumstances, has held as under:-

“11. It is necessary to quote the relevant judgment of Hon'ble Supreme Court passed in Civil Appeal No. 7752 of 2021 arising out of Special Leave Petition (C) No. 1564 of 2021 (The Secretary To Govt. Department of Education (Primary) & Ors. vs. Bheemesh @ Bheemappa. In the said case, the Hon'ble Supreme Court has held that applicability of modified scheme with respect to appointment on compassionate grounds would be based on a fixed criteria, like date of death, rather than indeterminate factor, like date of consideration of claim.

12. On the said subject matter of compassionate appointment, in the case of State of M.P. v. Ashish Awasthi reported in (2022) 2 SCC 157 it has been held at para 5 that as per the settled proposition of law laid down by this Court for appointment on compassionate ground, the policy prevalent at the time of death of the deceased employee only is required to be considered and not the subsequent policy. In para 6 of the said judgment, while discussing the case of Indian Bank v. Promila reported in (2020) 2 SCC 729 it is observed and held that claim for compassionate appointment must be decided only on the basis of relevant scheme prevalent on date of demise of the employee and subsequent scheme cannot be looked into. Similar view has



been taken by the Hon'ble Supreme Court in State of M.P. v. Amit Shrivastava reported in (2020) 10 SCC 496."

6. Admittedly in the present case also the husband of the petitioner died on 29.05.2015 and the petitioner had made an application for compassionate appointment on 03.02.2016, however, the authority has passed the impugned order of rejection on 22.11.2017 solely on the ground that the petitioner is not a matriculate pass as per the provisions of the Control order, 2016. However, it is to be noted that prior to coming into force of the Control Order, 2016 there was no minimum education qualification prescribed for appointment of any PDS dealer. Further, the petitioner has made her application on 03.02.2016 and her case was also recommended for appointment on 09.02.2016 by the Block Supply Officer, Kanti Muzaffarpur. Having regard to the law laid down by this Hon'ble Court in the above mentioned case, the rejection of her application solely on the ground that the Control order, 2016 does not permit an applicant who is not a matriculate pass to be appointed is without any legal basis. The Control order, 2016 can be applied prospectively and not retrospectively, the date of death of the husband of the petitioner and also the date of her filing the application have to be necessarily taken into consideration for considering her case and not coming into force



of the Control order, 2016.

7. Having regard to the same, the impugned order dated 22.11.2017 is set aside, the respondent-authority is directed to pass fresh orders for appointing the petitioner as a PDS dealer duly taking into consideration the observations of this Hon'ble Court.

8. With the above directions, the present Writ Petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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