

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22063 of 2018

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Priyanka Bharti W/o Santosh Kumar, R/o village- Shreepur Bahadur, P.O Malahipatti Bahadurpur, P.S Ashok paper Mill, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Food & Consumer Protection Department, Government of Bihar, Patna
2. The Chairman, District Level Selection Committee, District - Darbhanga.
3. The Collector-cum District Magistrate, Daarbhang
4. The Sub Divisional Officer, Sadar, Darbhanga.
5. The District Supply Officer, Darbhanga.
6. The Block Supply Officer, Haighat, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s N.K.Agrawal, Sr. Advocate Dhananjaya Nath Tiwari Kumar Rajdeep, Advocates
For the Respondent/s	:	Mr.S.Raza Ahmad -AAG 5

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 08-07-2026

1. The petitioner has filed the instant application for the following reliefs:

“For quashing the proceeding dated 09.06.2018 passed by the District Selection Committee by which the appointment of the Petitioner as PDS dealer for Panchayat- Malahipatti Uttari in the Block Hayghat, Sadar, District- Darbhanga has been cancelled on the ground that her Gotani is a dealer and further for quashing the



order contained in Memo No. 400 dated 14.07.2018 passed by the Learned Sub-Divisional Officer, Sadar Darbhanga by which the PDS license of the Petitioner being license No. 03/2018 has been cancelled and further for quashing the order dated 21.08.2018 passed in PDS Case No. 07/2018 by the Commissioner Darbhanga by which an appeal filed on behalf of the Petitioner against the order of the Licensing Authority has been dismissed as not maintainable and further be pleased to restore the license and supply of the Petitioner with immediate effect."

2. At the very outset, the Learned Senior counsel Mr. N.K.Agarwal appearing on behalf of the petitioner submits that the issue involved in the present writ petition is no longer *res integra*. It is contended that the issue stands squarely covered by the order dated 17.09.2021 passed by a Co-ordinate Bench of this Court in **CWJC . No. 25075 of 2019 (Saurabh Suman Vs. The State of Bihar & Ors)**, wherein an identical issue was considered and adjudicated.



The Learned Senior counsel for the petitioner, therefore, submits that in view of the aforesaid order, the present writ petition may also be disposed of, in terms of the order dated 17.09.2021.

3. In **Saurabh Suman** (supra) this Court has held as follows:

“The petitioner was an applicant for allotment of a fair price shop under Bihar Targetted Public Distribution System (Control) Order, 2016 (in short ‘BTPDS Control Order’). It is specific case of the petitioner that name of the petitioner was recommended for allotment of a fair price shop for Ward No. 28 under Phulwarisharif Nagar Parishad. Subsequently, his candidature was cancelled, which was not communicated to the petitioner. The petitioner learnt about the cancellation on the basis of information received by him under the Right to Information Act. The petitioner’s candidature, is said to have been cancelled with reference to Order 11(i) of the BTPDS Control Order. One Shrawan Kumar, who has been impleaded as respondent No. 6 is said to have been recommended for



allotment of the shop in question in place of the petitioner. Learned counsel for the State of Bihar has informed this Court that till date requisite licence has not been issued in favour of respondent No.6 because of the pendency of this application.

3. Order 11 of BTPDS Control Order reads as under : -

“11. Disqualifications 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.”

4. Order 11 of the BTPDS Control Order delineates the circumstances in which a person shall stand disqualified of getting a fair price shop licence. Sub-order (i) of Order 11 requires that no fair price shop licence 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 come within the definition of 'the family' for the purposes of Order 11(i). This is an admitted fact that the petitioner's father has licence for running a fair price shop under the BTPDS Control Order. Evidently, on this ground alone while invoking Order 11(i) of the BTPDS Control Order, the petitioner has been denied grant of licence, despite selection and



recommendation in his favour, the petitioner contends.

5. Despite service of notice, respondent No. 6 has not entered appearance.

6. Heard Ms. Chhaya Kirti, learned counsel appearing on behalf of the petitioner and Mr. Upendra Pratap Singh, learned A.C. to S.C.-4 for the State of Bihar.

7. Ms. Chhaya Kirti, learned counsel for the petitioner has argued that it is true that the petitioner and petitioner's father come within the meaning of family for the purposes of Order 11(i) of the BTPDS Control Order. She has, however, submitted that there is no jointness in the family inasmuch as there has been partition in the joint family. She has further contended that unless there is a cogent finding that a person is in jointness with the family members as mentioned in Order 11(i) of the BTPDS Control Order, he/she cannot be denied the privilege of grant of licence on that ground.

8. On careful reading of Order 11(i) of the BTPDS Control Order, I find substance in the submission made on



behalf of the petitioner. To deny the privilege of grant of licence 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 licence lives in jointness with his family member/members already having licence for running a fair price shop. Since there is no denial of facts, as noted hereinabove, this application is allowed with a direction to the licensing authority to reconsider the question of allotment of fair price shop, Ward No. 28 of Phulwarisharif Nagar Parishad. If the licensing authority-cum-Sub Divisional Officer is of the view that the petitioner cannot be granted licence because his father has been granted such licence under the BTPDS Control Order, he will have to record a finding based on cogent materials to the effect that the petitioner and his father live in jointness.

9. The decision must be taken within two months from the date of receipt/production of a copy of this order.

10. This application is allowed with aforesaid direction."

4. Having considered the submissions advanced on behalf of the parties and upon



perusal of the materials available on record, this Court finds that the controversy involved herein is fully covered by the judgment rendered by the Coordinate Bench in **Saurabh Suman (supra)**. The cancellation of the petitioner's selection and licence merely because her *gotani* is a PDS dealer, without recording any finding based on cogent materials that both families constitute a joint family within the meaning of Clause 11(i) of the Control Order, 2016, cannot be sustained.

5. Accordingly, the present writ application is allowed. The impugned orders are set aside. The matter is remitted to the Licensing Authority-cum-Sub-Divisional Officer for fresh consideration of the petitioner's entitlement to the fair price shop licence in question. If the Licensing Authority-cum-Sub-Divisional Officer is of the view that the petitioner cannot be granted or permitted to continue with the licence on the ground that her *gotani* has already been granted a licence under the Bihar Targetted Public Distribution System (Control) Order, 2016, the authority shall first



record a specific finding, based upon cogent and reliable materials, that the petitioner and the family of the existing licence-holder are living in jointness so as to attract the disqualification under Clause 11(i) of the Control Order, 2016. Mere existence of the relationship of *gotani*, without such finding, shall not constitute a valid ground for denial or cancellation of the licence.

6. The aforesaid exercise shall be completed within a period of two months from the date of receipt/production of a copy of this judgment.

7. The writ application stands allowed in the aforesaid terms.

8. Interlocutory Application, if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.07.2026
Transmission Date	

