

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10694 of 2023

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Wanju Kumari @ Vanju Kumari Wife of Rajesh Thakur Resident of Village-
Siswa Kharar, Ward no.13. Police Station-Kalyanpur, District-East
Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Food and Civil Supply
Department, Government of Bihar, Patna.
2. The Commissioner Cum Revisional Authority, Tirhut Division, Muzaffarpur
3. The District Magistrate/ Collector, District-East Champaran at Motihari.
4. The Sub-Divisional Magistrate Cum Licensing Authority, Chakiya District-
East Champaran.
5. The Block Supply Officer, Kalyanpur, District-East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	M/s S. Raza Ahmad AAG 5 Alok Ranjan, AC to 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:

*“for issuance of a writ in the
nature of certiorari or any other
appropriate writ(s), order(s),
Direction(s), for quashing the order
dated 10.04.2023 passed by the Id.
Court of Divisional Commissioner, Tirhut
Division, Muzaffarpur in PDS Revision*



Case no. 314/2022 whereby and where under the Revision Case filed by the petitioner against the order of the District Magistrate dated 09.02.2022, has been rejected and further prays for quashing the order dated 09.02.2022 whereby the District Magistrate refused to recommend the case of the petitioner for grant of Fair price shop under Public Distribution System and the petitioner further prays for issuance of consequential writ in the nature of Mandamus commanding and directing the licensing authority (respondent no. 4) to issue license in favour of the petitioner and/or for issuance of such other order/orders, direction/directions to which the petitioner may be found legally entitled to in the facts and circumstances of the case as stated hereinafter."

2. The brief facts culled out of the petition



are that the petitioner is the daughter of Late Bhagirath Thakur, who was a licensed Fair Price Shop (PDS) dealer of Village Siswa Khara, Panchayat Siswa Khara, Block Kalyanpur, District East Champaran, holding Licence No. 45/2007.

3. Late Bhagirath Thakur had no son and was survived by three daughters. While the petitioner's two sisters were married and residing in their matrimonial homes, the petitioner continued to reside with her father along with her husband. She had been assisting her father in running the Fair Price Shop and managing his affairs for several years and was wholly dependent upon him. The petitioner and her husband were shown as members of the deceased's family in the ration card. Her Aadhaar Card, PAN Card and Voter Identity Card also establish her residence in the same village. Certificates issued by the Mukhiya, Sarpanch, Ward Member and Panchayat Samiti Member further certify that the petitioner had been managing the PDS shop during the lifetime of her father. Her two sisters have also furnished no-



objection certificates in support of her claim.

4. Following the death of her father, the petitioner applied for compassionate allotment of the PDS licence. The Block Supply Officer, after conducting a detailed enquiry, submitted a favourable report vide Letter No. 40 dated 12.05.2021 recommending her appointment after verifying all relevant documents, including her educational qualifications, family certificate, character certificate, death certificate and other eligibility documents.

5. The petitioner has passed Intermediate Examination and also possesses an Advance Diploma in Computer Application. She fulfils all the eligibility conditions prescribed under the Bihar Targeted Public Distribution System (Control) Order. She neither owns any commercial establishment nor does any member of her family hold Government employment. She does not suffer from any statutory disqualification.

6. However, the District Compassionate Committee, by its decision dated 09.02.2022,



rejected her claim solely on the ground that a married daughter is not entitled for compassionate allotment under the Bihar Targeted Public Distribution System (Control) Order, 2016. Aggrieved thereby, the petitioner initially approached this Hon'ble Court in CWJC No. 8592 of 2022. The writ petition was permitted to be withdrawn with liberty to avail the statutory remedy before the Divisional Commissioner.

7. Pursuant thereto, the petitioner preferred PDS Revision Case No. 314 of 2022 before the Divisional Commissioner, Tirhut Division, Muzaffarpur. The revision was also dismissed by order dated 10.04.2023, affirming the rejection solely on the ground that the petitioner is a married daughter. The aforesaid orders are under challenge in the present writ petition.

8. The Learned counsel for the petitioner submits that the impugned orders are wholly arbitrary and unsustainable in law as the petitioner's claim has been rejected solely on the basis of her marital status, without examining her



actual dependency or eligibility.

9. It is submitted that the authorities have completely ignored the favourable enquiry report submitted by the Block Supply Officer, which specifically found the petitioner eligible and recommended grant of the licence after verification of all relevant records.

10. The Learned counsel further submits that dependency is essentially a question of fact and cannot be determined merely on the basis of whether the claimant is married. Once it stood established that the petitioner was residing with the deceased licence holder, was dependent upon him and had been assisting him in operating the Fair Price Shop, her claim could not have been rejected by applying an inflexible rule based solely on marriage.

11. It is further submitted that exclusion of a married daughter from compassionate allotment amounts to discrimination on the ground of sex and marital status and violates Articles 14 and 15 of the Constitution of India. A married son



continues to remain eligible for compassionate appointment if otherwise dependent upon the deceased. There exists no intelligible differentia for denying the same benefit to a married daughter who stands on an identical footing.

12. The Learned counsel also places reliance upon Letter No. 16973 dated 10.12.2014 and Letter No. 14157 dated 09.11.2017 issued by the General Administration Department, Government of Bihar, whereby married daughters have been recognised as members of the family and eligible dependants for compassionate appointment. It is submitted that these policy decisions reflect the constitutional mandate of equality and ought to have been given due effect while considering the petitioner's claim.

13. It is lastly submitted that the object of the compassionate scheme is to provide immediate financial assistance to the family of the deceased licence holder. The petitioner, being the only daughter who remained with and cared for her father and who had been managing the Fair Price



Shop during his lifetime, squarely satisfies the object and purpose of the scheme. The authorities have defeated the very purpose of compassionate allotment by rejecting her claim solely because she is a married daughter.

14. Accordingly, it is prayed that the impugned orders dated 09.02.2022 and 10.04.2023 be set aside and the respondents be directed to reconsider the petitioner's claim for compassionate allotment of the Fair Price Shop licence in accordance with law, without treating her marital status as a disqualification.

15. The Learned counsel appearing for the respondents submits that the impugned orders do not suffer from any illegality or arbitrariness and have been passed strictly in accordance with the provisions of the Bihar Targeted Public Distribution System (Control) Order, 2016.

16. It is submitted that after the death of the petitioner's father, the petitioner's application for compassionate allotment of the Fair Price Shop licence was placed before the District



Compassionate Committee, East Champaran. The Committee, in its meeting held on 09.02.2022, considered the petitioner's claim and found that she was not eligible under Clause 10 of the Bihar Targeted Public Distribution System (Control) Order, 2016, as she is a married daughter of the deceased licence holder.

17. The Learned counsel for the respondents submits that Clause 10 specifically provides the order of preference for compassionate allotment of a Fair Price Shop licence and includes only the wife/husband, son, unmarried daughter, daughter-in-law and widow of the son of the deceased licence holder. Since the petitioner is admittedly a married daughter, she does not fall within the category of eligible dependants contemplated under the statutory provision.

18. It is further submitted that before taking a decision, the Department sought clarification from the Food and Consumer Protection Department, Government of Bihar, which, by Letter No. 5231 dated 02.12.2021,



directed the authorities to consider applications strictly in terms of Clause 10 of the Control Order, 2016. Accordingly, the District Compassionate Committee rejected the petitioner's claim in conformity with the statutory provisions and the Government's clarification.

19. The Learned counsel for the respondents further submits that the petitioner availed the statutory remedy by filing PDS Revision Case No. 314 of 2022 before the Divisional Commissioner. Upon consideration of the records, the Divisional Commissioner, by a reasoned and speaking order dated 10.04.2023, affirmed the decision of the District Compassionate Committee and held that the petitioner's claim was rightly rejected under Clause 10 of the Control Order.

20. It is, therefore, contended that the authorities have merely implemented the statutory provisions as they stand and have not acted beyond or contrary to the Control Order. In the absence of any challenge to the validity of the statutory provision or any violation of the



prescribed procedure, no interference is warranted in exercise of the writ jurisdiction under Article 226 of the Constitution of India, and prayed to dismiss the Writ petition as devoid of merits.

21. 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.

22. 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.



23. 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."



24. 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."

25. 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.

26. 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.

27. 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.

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

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.07.2026
Transmission Date	

