

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12186 of 2025

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Awadesh Parwat Son of Jagarnath Parwat, Resident of Village - Dangi
Mathiya, P.S. - Goriakothi, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Siwan.
3. The District Supply Officer, Siwan
4. The Sub - Divisional Officer, Hajipur, Siwan.
5. The Block Supply Officer, Goriakothi, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Gaurav, Adv.
For the Respondent/s : Mr. Government Pleader (03)

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

7 30-06-2026 Heard the learned counsel for the parties.

The present writ petition has been filed for the
following relief(s):-

“A. A Mandamus Commanding the District Level Selection Committee Siwan for issuance & allotting of a P.D.S. license in the name of the petitioner immediately under compassionate ground which has already been recommended by the S.D.O. Mahrajanj by vide Memo No 03 dated 06.01.2020 contained therein Annexure P/1(Series) & the same -has also been recommended by the Block Supply Officer Goriakothi by vide Memo No. 74 dated 06.08.2019 contained therein Annexure -P/6(Series) but it is still pending before the selection committee, siwan for the consideration for which the petitioner is eligible & bonafide under the Bihar Targeted Public Distribution Control (Order) 2016.

B. A mandamus commanding the S.D.O, Mahrajanj further to issue a P.D.S license in the name of petitioner under the compassionate ground because the petitioner is matching with all the eligibility criteria



under which he is the only who is fully & purely entitled to obtained that license of P.D.S Shop.

C. Any other relief or reliefs for which the petitioner may be found entitled in the fact and circumstances of the present case may be granted to him.”

Re: I.A. No. 01 of 2026.

3. For the reasons mentioned in the above Interlocutory Application, the same is allowed.

4. The following relief(s) has been added by allowing I.A. No. 01 of 2026:-

“For quashing & setting aside the unspecified decision & impugned order of the District Level Selection Committee, Siwan containing Memo. No. 385 Annexure R/1 dated 31.05.2017 & containing Memo. No. 9 Annexure R/2 dated 09.01.2020 whereby and where under the District Level Selection Committee siwan has repudiated legitimate claim of the petitioner on the contrary of the implicit provisions contained thereto without considering the facts, merit & law laid down upon it without application of mind unilaterally & prejudicially & directing the District Level Selection Committee, Siwan as well as S.D.O, Mahrajganj to issue a P.D.S license in the name of petitioner under the compassionate ground because the petitioner is matching all the eligibility criteria under which he is the only who is fully & purely entitled to obtained that license of P.D.S Shop & to resume the supply of food grains by allotting the monthly allotment of food grains as same as before.”

5. It is the case of the petitioner that the father of the petitioner was appointed as PDS dealer in the year 1987 and he died on 11.12.2015. That the petitioner thereafter has filed an application seeking appointment as PDS dealer on compassionate grounds. The application of the petitioner has



been recommended by the Block Supply Officer, Goriakothi, Siwan *vide* Memo No. 74. Thereafter, basing on the recommendation made by the Block Supply Officer, the SDO has also recommended the name of the petitioner to be appointed as PDS dealer on compassionate grounds to the District Level Selection Committee (DLSC) *vide* Memo No. 03/2020. However, till date the authorities are not taking any action on the said recommendation and the petitioner is being made to run from pillar to post. Learned counsel submits that the DLSC has kept the application made by the petitioner pending 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) and filed the 2nd application after two years. Learned counsel submits that the impugned decision of the DLSC 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 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 decision dated 31.05.2017 (Annexure-R/1) & 09.01.2020 (Annexure-R/2) 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.

6. *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 has to be 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.

7. 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.

8. Admittedly in the present case also the father of the petitioner died on 11.12.2015 and thereafter the petitioner had made an application for compassionate appointment on 08.09.2018. However, the authority has not passed any order 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 application of the petitioner was recommended for appointment on 06.08.2019 by the Block Supply Officer, Goriakothi, Siwan and also the SDO concerned. Further, the contention that the petitioner's second application is made after two years is also not correct and legally tenable as no orders are passed on the first application as it is well within time and the same shall only be taken into consideration.



9. Having regard to the law laid down by this Hon'ble Court in the above mentioned case, the non-consideration of the 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 has to be applied prospectively and not retrospectively, the date of death of the father of the petitioner has to be necessarily taken into consideration for considering his case and not coming into force of the Control order, 2016.

10. Having regard to the same, the impugned decision dated 31.05.2017 (Annexure-R/1) & 09.01.2020 (Annexure-R/2) are both set aside. The matter is remanded back and the respondent-authorities are directed to reconsider the application of the petitioner for appointing as a PDS dealer afresh duly taking into consideration the observations of this Hon'ble Court and also the recommendations made by the Block Supply Officer and the SDO concerned at the earliest preferably within a period of four weeks from the date of receipt of a copy of this order.

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

12. All pending I.As., if any, are deemed to have



been disposed of.

(A. Abhishek Reddy, J)

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