

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15289 of 2022

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Minta Devi Wife of Late Ramesh Kumar Resident of Village-Satpura, Post-Bara Koriarn, Panchyat-Sonwarsha, P.S. and District-Arwal, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Govt, of Bihar, Patna.
2. The District Magistrate-Cum-Collector, District-Arwal.
3. The District Supply Officer, District-Arwal.
4. The Sub-Divisional Officer, Arwal.
5. The Block Supply Officer, Arwal

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikash Kumar Pankaj
For the Respondent/s : Mr. Arvind Ujjwal (SC 4)

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 11-08-2026

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

“(i) To issue Writ of Certiorari or any other appropriate Writ order to set aside the order contained in Memo No. 503 dated 07.08.2018 (Annexure-3) to the extent whereby Respondent No. 2 has rejected & returned the proposal to grant PDS license to the Petitioner of her deceased husband on compassionate ground as she is not matriculation pass in terms of Rule 9 (V) of the Bihar Targeted P.D.S. (Control)



Order, 2016 (Hereinafter, referred as "Control Order").

(ii) To issue consequential Writ of Mandamus or any other appropriate Writ order directing the Respondents particularly Respondent No. 2 to 4 to immediately grant PDS license to the Petitioner of her deceased husband on compassionate ground."

2. The brief facts culled out of the Writ petition are that the petitioner's husband, Late Ramesh Kumar, was a licensed Public Distribution System (PDS) dealer of Village Satpura, Panchayat Sonwarsa, District Arwal, holding Licence No. 62/2007. According to the petitioner, no complaint was ever made against him during his tenure.

3. It is the case of the petitioner that while collecting the allotted foodgrains for the PDS shop, her husband died on 05.12.2014. Thereafter, the petitioner, being the widow of the deceased licensee, submitted an application on 09.02.2015 for grant of PDS licence on compassionate grounds along with all the requisite documents. According



to the petitioner, on the date of submission of the application, there was no requirement that an applicant seeking compassionate grant of PDS licence should be matriculation pass.

4. The Learned counsel for the petitioner submits that the Bihar Targeted Public Distribution System (Control) Order, 2016 subsequently came into force, making matriculation a mandatory qualification. Thereafter, by Memo No. 503 dated 07.08.2018, the District Selection Committee rejected the petitioner's application solely on the ground that she was not matriculation pass in terms of Rule 9(v) of the 2016 Control Order.

5. The Learned counsel for the petitioner submits that the said rejection is illegal since her application had been filed in the year 2015, much prior to the coming into force of the 2016 Control Order, and therefore the said provision could not have been applied retrospectively. It is further stated that the petitioner came to know about the impugned order only after obtaining information under the Right to Information Act pursuant to her



application dated 01.08.2022. The petitioner further asserts that after the death of her husband, the PDS shop was the only source of livelihood for the family and due to non-grant of the licence, her financial condition has considerably deteriorated.

6. The Learned counsel for the petitioner submits that the petitioner's application having been filed on 09.02.2015 was liable to be considered under the Rules prevailing on that date. It is submitted that Rule 9(v) of the Bihar Targeted Public Distribution System (Control) Order, 2016 could not have been applied retrospectively to reject an application which was already pending.

7. The Learned counsel further submits that the impugned order dated 07.08.2018 is arbitrary, illegal and unsustainable in law. It is also submitted that the petitioner was never informed about the rejection of her application and came to know about the same only through the Right to Information Act.

8. In support of his contention, the Learned counsel has placed reliance upon the judgment of



a Co-ordinate Bench of this Court in **CWJC No. 3809 of 2011 (Mohan Kumar Choudhary Vs. The State of Bihar & Ors.)**, wherein it has been held that the amended provisions of the Public Distribution System (Control) Amendment Order would apply prospectively and not to applications already pending on the date of amendment.

9. For better appreciation of the issue, the relevant observations of the Co-ordinate Bench are reproduced hereinbelow:

"Learned Assistant Counsel to Government Advocate No.1 appearing for the State submits that since the father of the petitioner died after attaining the age of 55 years and as per the provisions of Public Distribution System (Control) Amendment Order, 2011, vide notification dated 23rd of June, 2011, the petitioner is not entitled to transfer of the aforesaid licence in his favour on compassionate ground.

In reply, it is submitted on behalf of the petitioner that the aforesaid notification has been issued only on 23rd of June, 2011 whereas the father of the petitioner died on 19th of June, 2010 and



thereafter the petitioner applied for transfer of the licence on compassionate ground in his favour on 6.8.2010. It is submitted that the aforesaid notification, as contained in Annexure-A to the counter affidavit, is accordingly not applicable in his case. As a matter of fact, Letter No.6780 dated 17th of August, 2011, issued by the State Government in the Department of Food and Consumer Protection, a copy of which has been produced by the petitioner and is being kept on the record, clearly mentioned that the said notification is applicable with effect from the date of the notification only i.e. 23.6.2011.

Upon considering the rival submissions of the parties, it would appear that the father of the petitioner (the original licensee) died on 19.6.2010 and an application for transfer of the licence was filed on 6.8.2010 and as such, the notification issued on 23rd of June, 2011, as contained in Annexure A, could not be applicable in the cases which are pending consideration prior to the aforesaid date of notification. It has been clarified in the aforesaid letter no.6780 dated 17th of August, 2011 that



the Public Distribution System (Control) Amendment Order, 2011 would be applicable from the date of its notification.

In the above premises of the facts, in case the application filed by the petitioner is still pending, the Sub-Divisional Officer, Munger (respondent no.3) is directed to dispose of the same and final order be passed expeditiously, preferably within a period of two months on receipt/production of the certified copy of the present order.

The Writ application stands disposed of with the above observations/directions."

10. The Learned counsel for the petitioner has also placed reliance upon the judgment of another Co-ordinate Bench of this Court in **Most. Shashi Gupta Vs. The State of Bihar & Ors., reported in 2013 (2) PLJR 899**, wherein the aforesaid principle was reiterated. The relevant observations are reproduced hereinbelow:

"This Court is in full agreement with the views expressed in C.W.J.C. No.3809 of 2011 and, accordingly, it is



held that the amendment brought vide Public Distribution System (Control) Amendment Order, 2011 by addition of the aforesaid amended provision in Clause 2.5 would be applicable only from the date on which such amendment was enforced i.e., on 15.07.2011.

Thus, in my opinion, the impugned order, as contained in Annexure-9, so far it concerns the petitioner cannot be sustained in law and, as such is set aside. Let the competent authority take a fresh decision with regard to the petitioner within four weeks from the date of production of a certified copy of this order in accordance with the views expressed by this Court.

Accordingly, this Writ application stands allowed."

11. No counter affidavit has been filed on behalf of the respondents. However, the Learned counsel appearing for the respondents submits that the Writ application is devoid of merit inasmuch as Rule 9(v) of the Bihar Targeted Public Distribution System (Control) Order, 2016 prescribes that an applicant for grant of a fair price



shop licence must be an adult and matriculation pass. It is, therefore, submitted that the petitioner's application was rightly rejected.

12. Having heard the Learned counsel for the parties and upon perusal of the materials available on record, this Court finds that the petitioner's husband was a licensed PDS dealer, died on 05.12.2014 during the subsistence of the licence. Thereafter, the petitioner submitted an application on 09.02.2015 for grant of the PDS licence on compassionate grounds. It is also not in dispute that on the date of filing of the said application, there was no requirement under the prevailing Rules that an applicant seeking grant of PDS licence on compassionate grounds must possess the qualification of matriculation.

13. The petitioner's application came to be rejected by Memo No. 503 dated 07.08.2018 solely on the ground that she was not a matriculate in terms of Rule 9(v) of the Bihar Targeted Public Distribution System (Control) Order, 2016. The only question which, therefore, falls for consideration is



whether the provisions of the 2016 Control Order could be applied to an application which had already been filed and was pending since the year 2015.

14. In the considered opinion of this Court, the answer has to be in the negative. Unless expressly provided, a statutory provision is presumed to operate prospectively and not retrospectively. The petitioner's application was required to be considered in accordance with the Rules prevailing on the date when it was submitted and not on the basis of a subsequent amendment introducing a new eligibility condition.

15. This issue is no longer res integra. A Co-ordinate Bench of this Court in **Mohan Kumar Choudhary Vs. The State of Bihar & Ors. (CWJC No. 3809 of 2011)** has categorically held that the amended provisions of the Public Distribution System (Control) Order cannot be applied to applications which were already pending prior to the date of enforcement of the amendment. The said view has been reiterated by



another Co-ordinate Bench in **Most. Shashi Gupta Vs. The State of Bihar & Ors., 2013 (2) PLJR 899**, wherein it has been held that the amendment would operate prospectively and not affect pending applications.

16. In view of the above discussions, the impugned order contained in Memo No. 503 dated 07.08.2018, whereby the petitioner's application has been rejected by applying Rule 9(v) of the Bihar Targeted Public Distribution System (Control) Order, 2016, is unsustainable in law and is liable to be set aside.

17. Accordingly, the Writ petition is allowed setting aside the impugned order contained in Memo No. 503 dated 07.08.2018 (Annexure-3). The competent authority is directed to reconsider the petitioner's application for grant of PDS licence on compassionate grounds in accordance with the Rules applicable on the date of submission of her application, and pass a reasoned order within a period of two months from the date of receipt/production of a copy of this order.



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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.08.2026
Transmission Date	

