

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3870 of 2020

Sanju Devi Wife of Sunil Kumar Gupta Resident of Village- Bhanghatula,
P.S.- Barhara Kothi, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The Commissioner Purnea Division, Purnea.
3. The District Level Selection Committee Purnea through its Chairman.
4. The District Magistrate Purnea.
5. The Sub-Divisional Officer Purnea
6. The Block Supply Officer Dhamdaha, Purnea.
7. Anju Kumari Wife of Siya Charan Kumar Resident of Village- Bhanghatula,
P.S.- Barhara Kothi, District- Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Vijay Anand, Aatish Kumar, Advocates
For the State	:	M/s S. Raza Ahmad, AAG 5 Bijay Kumar Sinha, AC to AAG 5
For the Respondent No.7:	:	Ms. Preety Kunwar, Advocate

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 02-05-2025

1.The present writ petitioner has been filed for challenging the order dated 25.11.2019 passed by the Secretary, Food and Consumer Protection Department, Patna, whereby the order dated 29.06.2019 passed by the Commissioner, Purnea Division, Purnea was set aside, as the same was not found lawful. The petitioner further prays for a direction to the competent authority to grant



license in favour of the petitioner for Latraha Panchayat, in accordance with the provisional merit list.

2. At the outset, it is imperative to take note of the relevant background facts and the litigation history between the parties that are germane to the present dispute.

3. The petitioner made an application, pursuant to Notice dated 19.05.2017 published in Daily Newspaper Dainik Jagran Hindi Edition in terms of Letter No. 1222 dated 8.3.2017 under the Bihar Targeted PDS Control Order 2016 for grant of PDS License in various Sub-divisions in the District of Purnea. The petitioner applied for grant of PDS License in Latraha Panchayat, Barhara Kothi Block, where there was vacancy of one seat, in the office of Sub-Divisional Officer, Dhamdaha, under General Category (Female).

4. Respondent No. 7 also filed her application form, for the for grant of PDS License for Latraha Panchayat, Barhara Kothi Block, in the General category in office of Sub-Divisional Officer,



Dhamdaha, under General Category (Female).

5. The petitioner annexed a comparative chart, which has been prepared in the office of Sub-Divisional Officer, Dhamdaha (Annexure-3) showing the list of five applicants who applied for the PDS license, in question.

6. The petitioner filed an objection on 28.07.2018 before the District Magistrate, Purnea stating therein that the close relative of respondent No. 7 is already running a PDS shop in Ward No. 3, of Latraha Panchayat, Barhara Kothi Block, District Purnea. It is further submitted that another candidate Sudha Kumari is not having the certificate of computer knowledge, and another candidate, Pallavi Kumari whose father-in-law is the PACS President in Lataraha Panchayat and is also running a PDS shop and as such these applicants were not suitable candidates, for grant of PDS license and the petitioner is claiming herself to be a suitable candidate for the PDS license in question.

7. The Petitioner brought on record



Annexure-5 which is the provisional merit list prepared on 29.09.2018 by the Committee for the PDS license in question.

8. From perusal of provisional merit list, it appears that the objection filed by the petitioner before the District Magistrate, Purnea was rejected without assigning any suitable reason and the candidature of candidate at Sl. No. 2, namely, Sudha Kumari and at Sl. No. 3 Pallavi Kumari were also rejected. It is claimed by the petitioner that on the same day i.e., 29.09.2018 a final merit list (Annexure-6) was prepared and the name of respondent No. 7 was shown as selected for grant of PDS License. Thereafter, the petitioner filed an objection before the District Magistrate, Purnea on 23.10.2018 and also before the Commissioner, Purnea Division, Purnea on 24.10.2018. It is further submitted that when the final list was published and the name of respondent No. 7 was selected for grant of PDS License in Latraha Panchayat then the petitioner moved to this Court by filing CWJC No. 22529 of 2018 which was disposed of on



27.11.2018, with a direction to the petitioner to file a representation within a period of four weeks before the Commissioner, Purnea Division, Purnea and in turn the Commissioner, Purnea Division, Purnea was directed to dispose of the same within a period of 8 weeks thereafter.

9. It is submitted by the petitioner that, thereafter, the Commissioner, Purnea Division, Purnea, passed a detailed order in Misc. Supply Case No. 107/2018 on 18.06.2019 (Annexure-10) filed by the petitioner, holding therein that the respondent No. 7 is the resident of Ward No. 3, and in that Ward a PDS shop has already been running by the close relative of the respondent No. 7. It was further observed in the order that the petitioner is resident of Ward No. 4 and in ward No. 4 there is no such PDS shop as such selection of respondent No. 7, who is resident of Ward No. 3 cannot be lawful because the objective of the fresh license of PDS is to give the benefit to the consumer, who can get their food grains from their nearest PDS shop and in the advertisement there



was a specific clause that the candidature of those candidates will not be accepted if in their Ward, a PDS shop has been running already and accordingly the selection of respondent No. 7 do not sustain and is to be set aside.

10. Against the order of Commissioner, Purnea, dated 18.6.2019, the respondent No. 7 preferred an appeal before the Secretary, Food & Consumer Protection Department, Patna, which was allowed by order dated 25.11.2019 contained in Memo No. 5547 (Annexure-11) on two points. First, there was no irregularities in granting license in the same ward, where the PDS License is already running and secondly the letter issued for Madhepura District cannot be applicable in the Purnea District.

11. The Learned counsel for the petitioner submitted that the Secretary, while passing the order dated 25.11.2019 completely ignored the Sub Rule (ii) of Rule 9 of Bihar Targetted PDS Control Order 2016, by which it shall be ensured that a consumer should not cover a maximum



distance of more than 2 Km in reaching his Fair Price Shop in rural areas.

12. Further, the Learned counsel for the petitioner submitted that the order dated 25.11.2019 do not sustain in the eye of law and is fit to be quashed and further the petitioner should be selected in terms of order dated 18.6.2019 passed by the Commissioner, Purnea Division, Purnea.

13. A counter affidavit was filed on behalf of the respondent Nos. 2 to 6. It is submitted that the petitioner is not at all entitled to relief claimed by her, as per paragraph No. 1 of the petition, as the Secretary, Food and Consumer Protection Department, Patna, has set aside the order dated 18.06.2019 passed by the Divisional Commissioner, Purnea in Misc. Supply Case No. 107 of 2018 by his order as contained in Memo No. 5547 dated 25.11.2019 and has given a direction to grant PDS license to the respondent No. 7.

14. A counter affidavit was filed by



respondent No. 7 stating therein that the cousin father-in-law of the respondent No. 7 does not come within the meaning / definition of joint family as per clause 11(i) of the Bihar Targeted Public Distribution System (Control) Order, 2016, which reads as follows:

“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.”

15. The Learned counsel for the respondent No. 7 submitted that in view of the above, the objection of the petitioner on the ground that the cousin's father-in-law of Respondent No. 7 is already a PDS Dealer and that PDS license should not have been granted is not at all tenable in the eyes of law. Further, the respondent No. 7 is running his shop since 2018 without any complaint.

16. It is further contended in the counter



affidavit that the application of the petitioner was incomplete and not fully filled-up hence the same was rejected on the ground of incomplete form.

17. The petitioner filed rejoinder to the counter affidavits filed on behalf of respondent Nos. 2 to 6 and respondent No. 7 and contended therein that cousin father-in-law of respondent No. 7 has already been holding a PDS license and the said PDS shop is already working in the same Ward No. 2, so issuance of a PDS License to private respondent No. 7 to run the PDS shop in the same Ward is clear violation of Rule 11(i) of the Bihar Targeted PDS (Control) Order, 2016. In support of his contention that cousin father-in-law comes under the definition of Joint family, he relied on the judgments of **Surjit Lal Chhabda V. CIT** reported in **1976 AIR 109**, **Rukhmabai V. Lal Laxminarayan** reported in **1960 AIR 335** and **Rajagopal V. Padmini** reported in **1996 AIR 238** rendered by the Hon'ble Apex Court.

18. Heard Learned counsel for the petitioner, the Learned counsel for the respondent



Nos. 2 to 6 and the Learned counsel for the respondent No. 7.

19. In response to queries raised by the Court, supplementary counter affidavit has been filed on behalf of the respondent Nos. 3 to 6. First query was with respect to granting license for 2nd PDS shop in Ward No. 3 and the second query was with respect to place of original application of the petitioner to prove that whether the application filed by the petitioner is complete or not.

20. By filing supplementary counter affidavit with respect to the first queries i.e. granting license for 2nd PDS Shop in ward No.3, it is submitted that advertisement for granting PDS License against one seat under unreserved female category for Latraha Panchayat was published and for the same five application were received. Out of 5 applicant, Respondent No. 7 was found to be most eligible candidate, therefore, the license for running PDS Shop was granted in favour of Respondent no.7. It is further submitted that advertisement was issued for a Panchayat



irrespective of its comprising Wards and co-incidentally the selected candidate was also a resident of the same Ward which already has PDS Shop running. It is submitted that the petitioner also filed an objection against the selection of the Respondent No. 7 alleging therein that the brother of the Father-in-Law of the Respondent No.7 was already having a license for running a PDS Shop. It is further submitted that according to the Rule 11 (1) the brother of father-in-law does not come under the prohibited category for declining a license.

21. With respect to the second query i.e. whether the application filed by the Petitioner was complete or not, it is submitted by the respondents that the Column 3 to 13 of the application of the Petitioner was found to be incomplete, therefore, the application of the Petitioner was rightly rejected by the selection committee.

22. Upon perusal of the original application submitted by the petitioner for grant of PDS



License, it appears that the application submitted by the petitioner was incomplete and was not duly filled, and as such, it was rightly rejected on the ground of being incomplete. Further, on examination of Clause 11(i) of the Bihar Targeted Public Distribution System (Control) Order, it is evident that a cousin father-in-law does not fall within the definition of a "joint family" as contemplated under the said provision.

23. In view of the aforesaid facts and circumstances, this Court finds no infirmity in the order dated 25.11.2019 passed by the Secretary, Food & Consumer Protection Department, Patna.

24. Accordingly, the Writ petition is dismissed as devoid of merits.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.05.2025
Transmission Date	

