

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.4661 of 2023

Brajkishore Sao, son of late Kamal Nath Sao, resident of Village Napokhurd, P.O. Gosai Balia, P.S. Barkagaon, District Hazaribagh, Jharkhand. **Petitioner**

Versus

1. The State of Jharkhand, through its Secretary, Department of Food Grains, Public Distribution and Consumer Affairs, Government of Jharkhand, Project Building, Ranchi, P.O. + P.S. Dhurwa, District Ranchi.
2. The Deputy Commissioner, Nawabganj, Hazaribagh, P.O. + P.S. Hazaribagh, District Hazaribagh.
3. District Supply Officer, Hazaribagh, P.O. + P.S. Hazaribagh, District Hazaribagh.
4. Prem Sao, son of late Kamal Nath Sao, resident of Village Napokhurd, P.O. Gosai Balia, P.S. Barkagaon, District Hazaribagh. **Respondents**

CORAM : SRI ANANDA SEN, J.

For the Petitioner (s) : Mr. Anuj Burman, Advocate.
Mr. Birendra Kumar, Advocate.
Mr. Raj Kishore Sahu, Advocate.

For the Respondents : Mr. Aditya Raman, AC to GA-III
Mr. Suraj Singh, Advocate

05/14.06.2024

I.A. No.9978 of 2023

For the reasons indicated in this interlocutory application for accepting vakalatnama on behalf of respondent No.4, the same is hereby accepted.

Accordingly, the I.A. No.9978 of 2023 is allowed.

W.P.(C) No.4661 of 2023

Heard learned counsel for the petitioner and learned counsel for the State as well as the respondents.

2. The main grievance of the petitioner is that without hearing him and without giving any opportunity to oppose the PDS license which was in the name of father of this petitioner, being License No.16/85 was allotted to the respondent No.4 after the death of the father.

3. Learned counsel appearing on behalf of the petitioner submits that as per the provision of law, "No Objection Certificate" had to be obtained from the heirs, but being the elder brother, "No Objection Certificate" was not given by him, thus, in absence of the NOC, the license could not have been transferred in the name of respondent No.4 after death of the original licensee, who is the father of both the parties. He

refers to clause-11(Cha) and (ja) of Jharkhand Targeted Public Distribution System Control Order, 2022 (hereinafter referred to as the Order, 2022). He further submits that at least he should have been heard before the license was issued in the name of respondent No.4.

4. Admittedly, the petitioner and respondent No.4 are brothers. It is also an admitted fact that the license of the Public Distribution System was standing in the name of father of the petitioner. After his unfortunate death, the license was transferred in the name of his youngest son who is respondent No.4.

5. Clause-11 Cha of the Order, 2022, provides that on compassionate ground, license can be transferred to a dependent of the deceased. Further as per Clause-11 Ja, there is a provision that if there are more claimant for the said license on compassionate ground, "No Objection Certificate" from the other claimants should be obtained. Thus, from the aforesaid provisions, it is clear that the person who is seeking transfer of the said license on compassionate ground must be dependent on the deceased and must claim for the said license on compassionate ground.

6. Admittedly, the petitioner is not a dependent of the deceased as he has separate source of livelihood. So far as the claim for the license is concerned, there is nothing to suggest that he has claimed transfer of the license on compassionate ground in his favour. The fact which cannot be lost sight of is that the mother of these two persons i.e. widow of the original licensee is alive and she had recommended respondent No.4. Since the widow of the deceased has recommended respondent No.4 and her wish has been honored by the State being the wish of the widow of the deceased, I find that the license has been correctly transferred in the name of the youngest son i.e. respondent No.4.

7. Thus, I find no merit in this writ petition.

8. Accordingly, the present writ petition is **dismissed**.

(ANANDA SEN, J.)