



2026:AHC-LKO:41494

AFR

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 1213 of 2026

Reena Devi Patel

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Food Civil Supply Deptt.
And 5 Others

.....Respondent(s)

Counsel for Petitioner(s) : Daya Shankar Yadav
Counsel for Respondent(s) : C.S.C.

Court No. - 3

HON'BLE ARUN KUMAR SINGH DESHWAL, J.

1. Heard Shri Daya Shankar Yadav, learned counsel for the petitioner and Shri Badrish Kumar Tripathi, learned Additional Chief Standing Counsel for the State-respondents and perused the record.

2. Present petition has been filed, inter-alia, for the following relief :

"1) to issue a writ, order or direction in the nature of certiorari thereby quashing the impugned order dated 21.01.2026 passed by opposite party no. 4, as contained Annexure No. 1 to the writ petition.

(ii) to issue a writ, order or direction in the nature of mandamus commanding the opposite party no. 4 to appoint the petitioner under compassionate ground, as Fair Price Shop dealer in Village Panchayat Chalakpur Kurmiyan, Block-Baba Belkharnath Dham, Tehsil-Raniganj, District-Pratapgarh."

3. Learned counsel for the petitioner submitted that the petitioner's father, Raj Bahadur Patel, was allotted a fair price shop dealership in Gram Panchayat Chalakpur Kurmiyan, Block Baba Belkharnath Dham, Tehsil Raniganj, District Pratapgarh, who died on 02.11.2025, whereafter the petitioner, being his daughter and dependent, submitted an application dated 30.12.2025 seeking allotment of the said fair price shop dealership on the ground that she continued to reside with her father even after marriage and thus is a local resident fulfilling the requisite eligibility conditions, however, the said application was rejected by the Sub-

Divisional Magistrate, Raniganj, Pratapgarh, vide order dated 21.01.2026.

4. It is further submitted that upon bare perusal of the impugned order, it is evident that the petitioner's application for appointment as fair price shop dealer on compassionate grounds has been rejected solely on the ground that she is a married daughter of the deceased allottee, Raj Bahadur Patel. It is submitted that the petitioner, being a dependent of the deceased, cannot be denied such appointment merely on the basis of her marital status, as the same is arbitrary, unreasonable, and violative of Article 14 of the Constitution of India. Learned counsel has further placed reliance upon the judgment of the Hon'ble Supreme Court in *Kulsum Nisha v. State of U.P.*, 2026 SCC OnLine SC 1059, wherein it has been held that a married daughter cannot be excluded from consideration for appointment on compassionate grounds as a fair price shop dealer solely on the ground of her marriage.

5. It is next submitted that as per Clause 2(p) of the U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 (hereinafter referred to as the "Control Order, 2016"), the definition of "family" includes the adult children of the deceased fair price shop dealer, and the term "adult children" encompasses both sons and daughters, whether married or unmarried, and therefore the petitioner, being an eligible dependent within the meaning of the said provision, is entitled to be considered for compassionate appointment, and hence the impugned order deserves to be quashed.

6. Learned Additional Chief Standing Counsel (ACSC) vehemently opposed the aforesaid prayer and submitted that even though the petitioner, being a married daughter, may be eligible to apply for appointment as fair price shop dealer after the death of her father, she is still required to satisfy other necessary conditions such as local residence, dependency on the deceased fair price shop dealer, no objection from other adult family members, and prescribed educational qualifications. It is further submitted that against the non-issuance of licence for running the fair price shop, the petitioner has an efficacious alternative remedy of appeal under Order 13 of the Control Order, 2016, and therefore, the present writ petition is liable to be dismissed on the ground of availability

of alternative remedy.

7. Considering the aforesaid submissions and upon perusal of the record, it is not in dispute that the petitioner is a married daughter of late Raj Bahadur Patel, who was a fair price shop dealer in Gram Panchayat Chalakpur Kurmiyan, Block Baba Belkharnath Dham, Tehsil Raniganj, District Pratapgarh, and that her application for appointment as fair price shop dealer on compassionate grounds was rejected on the ground that, being a married daughter, she does not fall within the definition of "family" as prescribed under the Control Order, 2016 as well as Government Order No. 6 of 2019.

8. The State Government, in exercise of powers under Section 3 of the Essential Commodities Act, 1955 issued U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016, which has laid down the procedure for appointment, monitoring, and distribution of essential commodities through fair price shops and has further prescribed the eligibility criteria for appointment as a fair price shop dealer. The State Government has also issued Government Order dated 05.08.2019 in exercise of powers under Rule 7(2)(i) of the Control Order, 2016. Paragraph 4 of Government Order No. 6 of 2019 prescribes the essential qualifications for a person to be appointed to run a fair price shop in rural areas. The definition of "family" has been provided under Clause 2(p) of the Control Order, 2016, which is being quoted as under:

"Family" means group of following persons, impugned order dated 21.01.2026 passed by opposite party no. 4

Head of the family. Husband/Wife, including legally adopted children.

Adult children, who are fully dependent on the head of the family.

Unmarried, legally separated and widow daughters; and

Fully dependent Mother/Father, of the head of the family."

9. Similarly, the Government Order dated 05.08.2019 issued by the State Government in pursuance of the Control Order, 2016 also lays down the essential qualifications and conditions for selection under Clause 4, and

the same is being quoted as under:

"IV) ग्रामीण क्षेत्र में राशन की दुकानों के चयन हेतु अनिवार्य अर्हताएं एवं शर्तें :

1 अभ्यर्थी के खाते में कम से कम ₹0 40000/- उपलब्ध हों, ताकि वह अपनी दुकान हेतु आवंटित एक माह की सामग्री का एक बार में उठान करने के लिए आर्थिक रूप से सक्षम हो।

2 अभ्यर्थी द्वारा अपने आवेदन के साथ जिलाधिकारी द्वारा निर्गत चरित्र प्रमाण पत्र भी प्रस्तुत किया जायेगा।

3 उसकी शैक्षिक योग्यता कम से कम हाई स्कूल अथवा उसके समकक्ष परीक्षा उत्तीर्ण हो।

4 अभ्यर्थी की आयु 21 वर्ष से अधिक हो और परिवार में किसी अन्य सदस्य के नाम कोई उचित दर दुकान आवंटित न हो।

5 अभ्यर्थी स्थानीय निवासी हो।

6 अभ्यर्थी द्वारा रुपये 1000/- की अर्नेस्ट मनी का बैंक ड्राफ्ट जिला पूर्ति अधिकारी के पक्ष में जमा किया जायेगा। उक्त अर्नेस्ट मनी उचित दर दुकान के आवंटन की स्थिति में प्रतिभूति राशि में समायोजित कर ली जायेगी।

7 उचित दर दुकान की नियुक्ति की स्थिति में अभ्यर्थी को रुपये ...

8 अभ्यर्थी के विरुद्ध कोई भी आपराधिक मामला पंजीकृत न हो और न ही वह किसी आपराधिक मामले में दण्डित किया गया हो।

9 अभ्यर्थी अथवा उसके परिवार के किसी सदस्य के नाम पूर्व में आवंटित उचित दर दुकान अनियमितता के कारण निरस्त न हुई हो और उसके विरुद्ध आवश्यक वस्तु अधिनियम-1955 की धारा 3/7 के अन्तर्गत अथवा आपराधिक दण्ड संहिता के अन्तर्गत कारित किसी जघन्य अपराध में विधिक कार्यवाही न हुई हो।

10 ग्राम प्रधान के परिवार के सदस्यों के पक्ष में उचित दर की दुकान के आवंटन का प्रस्ताव नहीं किया जायेगा। परिवार की परिभाषा, जैसा कि 30प्र0 आवश्यक वस्तु वितरण के विनियमन का नियंत्रण आदेश 2016 में दी गई है, निम्नानुसार होगी :-

परिवार का मुखिया,

पति/पत्नी विधिक रूप से अपनाये गये दत्तक सन्तान सहित।

सन्तान जो परिवार के मुखिया पर पूर्ण रूप से आश्रित हो।

अविवाहित, विधिक रूप से पृथक और विधवा बेटी, और

परिवार के मुखिया पर पूर्ण रूप से आश्रित माता/पितो

11 यदि किसी उचित दर विक्रेता अथवा उसके परिवार के सदस्य को जिसकी परिभाषा उपरोक्त बिन्दु-10 में दी गयी है, उन्हें ग्राम प्रधान चुन लिया जाता है, तो उसकी दुकान का आवंटन निरस्त कर दिया जायेगा। इस बिन्दु के प्राविधान इस सम्बन्ध में पूर्व में निर्गत शासनादेश संख्या-276/29-6-02-162 सा0/01, दिनांक 18.07.2002 की तिथि से ही प्रभावी रहेंगे।"

10. Similarly, Clause 5 of the Government Order deals with the procedure for allotment of a fair price shop dealership under the dependent quota after the death of the dealer, and Paragraph 5 of the said Government Order is being quoted as under:

“(V) उचित दर विक्रेता की मृत्यु के उपरान्त मृतक आश्रित के रूप में उचित दर दुकानों की नियुक्ति के सम्बन्ध में प्रक्रिया का निर्धारण :-

(1) मृतक आश्रित द्वारा विक्रेता की मृत्यु के 30 दिन के भीतर उचित दर दुकान के आवंटन हेतु मृतक आश्रित होने के प्रमाण पत्र तथा परिवार के अन्य बालिग सदस्यों के अनापत्ति प्रमाण पत्र सहित उप जिलाधिकारी को प्रार्थना पत्र प्रस्तुत किया जायेगा।

(2) मृतक आश्रित श्रेणी के अन्तर्गत उचित दर विक्रेता के रूप में नियुक्ति हेतु इच्छुक आश्रित द्वारा वांछित अर्हतायें जो कि इस शासनादेश के प्रस्तर-IV में वर्णित है, को पूर्ण करेगा।

(3) मृतक आश्रित के रूप में उचित दर दुकानों में नियुक्ति हेतु परिवार का तात्पर्य इस शासनादेश के प्रस्तर-IV (10) के अनुसार होगी।

(4) मृतक आश्रित के रूप में अभ्यर्थी को प्रार्थना पत्र दिये जाने हेतु 30 दिन की अवधि के उपरान्त अधिकतम 15 दिन का अतिरिक्त समय दिया जायेगा।

(5) मृतक आश्रित श्रेणी के अन्तर्गत आश्रित के पात्रता की शर्तें पूर्ण करने का परीक्षण तहसील स्तरीय चयन समिति द्वारा किया जायेगा। समिति मृतक आश्रित के सम्बन्ध में प्रमाण पत्र तथा परिवार के अन्य बालिग सदस्यों के अनापत्ति प्रमाण पत्र एवं अन्य अभिलेखों का परीक्षण करेगी।

(6) तहसील स्तरीय चयन समिति के परीक्षणोपरान्त आवेदन में सभी शर्तें पूर्ण होने की स्थिति में तहसील

स्तरीय चयन समिति की संस्तुति के आधार पर मृतक आश्रितों को दुकान का आवंटन किया जायेगा।

(7) सम्पूर्ण प्रकरण का निस्तारण आवेदन की प्राप्ति के 02 माह के भीतर कर लिया जायेगा।"

11. From a perusal of Clause 2(p) of the Control Order, 2016 as well as paragraph 4(1) of the Government Order, it is evident that the definition of "family" includes children fully dependent on the head of the family who was appointed as a fair price shop dealer in rural areas, though a separate clause has also been provided for inclusion of daughters, which specifically covers unmarried, legally separated, and widowed daughters. If the aforesaid provisions are interpreted conjointly by adopting a literal interpretation, it would lead to an anomalous and absurd result which was never intended by the legislature, as daughters cannot be arbitrarily classified into married and unmarried categories for the purpose of extending a welfare measure. Such an arbitrary classification is violative of Article 14 of the Constitution of India, which prohibits discrimination based on unreasonable classification.

12. The Hon'ble Apex Court in *E.P. Royappa v. State of Madras (now Tamil Nadu)*, (1974) 4 SCC 3, has observed that equality is antithetic to arbitrariness. The Hon'ble Apex Court has further held in *State of West Bengal v. Anwar Ali Sarkar*, (1952) 1 SCR 284, that while reasonable classification is permissible under Article 14 of the Constitution of India, such classification must be founded on an intelligible differentia having a rational nexus with the object sought to be achieved. The Act of 1935 as well as the Control Order, 2016 have been framed to ensure equitable distribution of essential commodities through the public distribution system, and therefore, the said provisions are required to be interpreted in a purposive manner rather than a literal interpretation.

13. The issue of excluding a married daughter from the purview of "family" for the purpose of appointment as a fair price shop dealer on compassionate grounds was also considered by the Hon'ble Apex Court in *Kulsum Nisha* (supra), wherein it has been observed that the expression "daughter" under Clause 2(p) of the Control Order, 2016 has to be read to include a married daughter, provided she establishes dependency on the deceased dealer and satisfies all other eligibility conditions prescribed

under the Government Order, including the requirement of local residence. Clause 4 of the Government Order clearly prescribes the eligibility criteria for appointment as a fair price shop dealer, which inter alia requires that the applicant must have passed High School examination, must be at least 21 years of age, must be a local resident, and must not be involved in any criminal case.

14. Paragraphs 25 and 26 of the judgment of the Hon'ble Apex Court in *Kulsum Nisha* (supra) are being quoted as under:

"25. Bearing in mind the object of the provision, that is to provide immediate financial relief to the dependent family of the deceased dealer and to ensure continuity of public distribution system, on purposive interpretation, the words "unmarried, legally separated and widowed daughters" in Clause 2(p) of 2016 Order, have to be read so as to include married daughters provided they fulfil other eligibility conditions laid down in G.O. for the following reasons:—

(i) The words "unmarried, legally separated and widowed daughters" illustrate the specific categories of daughters who are expressly included. There is no express language of exclusion. The enumeration is a description of class of daughters who by reason of remaining in or returning to natal household, are most visibly placed in position of dependency. The absence of exclusionary language in respect of married daughters reflects an illustrative and not exhaustive character of enumeration;

(ii) The 2016 Order in Clause 2(p) itself defines one of the categories of family members as "Adult children who are fully dependent on the head of the family", without any qualification of marital status or gender.

(iii) The object of dependent quota is unambiguously welfare oriented, that is to provide for immediate financial relief to dependent family member of deceased dealer and to ensure continuity of public distribution system. Dependency and not the marital status is the governing criteria of the G.O.

(iv) The descriptive categories of daughters in Clause 2(p) of 2016 Order whether unmarried, legally separated or widowed share a common characteristic that is they remain or have returned to their natal family. They are united by functional criteria of dependency. A married daughter who has not departed from the natal household and is dependent upon it, shares the same functional characteristic.

(v) *The submission that a married daughter necessarily fails to satisfy the local residence requirement and therefore cannot be a dependent, needs a factual inquiry to be made in every case. A blanket exclusion of all married daughters on such a speculative presumption is unjustified and is constitutionally untenable.*

(vi) *To read the words “unmarried, legally separated and widowed daughters” in Clause 2(p) of 2016 Order would produce a result which is inconsistent with constitutional guarantees under Articles 14 and 15(1) as the same would amount to exclusion of a married daughter on a gender-based stereotype which is constitutionally impermissible.*

(vii) *The exclusion of married daughter who is dependent upon the deceased dealer and resides with the family and is capable of running the fair price shop would directly frustrate the purpose of the provision. To sum up, the expression “daughter” in Clause 2(p) of 2016 Order, has to be read to include a married daughter provided she establishes the dependency on the deceased dealer and satisfies all other eligibility conditions prescribed under the G.O. including the requirement of local residence.*

26. *For the foregoing reasons, on a purposive construction of Clause 2(p) of 2016 Order, we hold that the expression “daughters” used in the aforesaid provision includes a married daughter who furnishes a dependency certificate along with No Objection Certificates from other adult family members of the deceased dealer and is a local resident and satisfies all other eligibility conditions prescribed in the G.O. The provision, so construed, would neither suffer from any invalidity nor any constitutional infirmity. It is saved by the very meaning it bears when understood in the light of its purpose.”*

15. From the above analysis as well as the law laid down by the Hon’ble Apex Court in the aforesaid cases, it is clear that a married daughter is also included within the definition of “family” and is entitled to apply for appointment as a fair price shop dealer after the death of her father or mother, subject to fulfillment of other eligibility conditions such as local residence, no objection from other adult family members, and other prescribed requirements.

16. Therefore, this Court is of the view that the rejection of the petitioner’s application solely on the ground that she is a married

daughter, for appointment as a fair price shop dealer on compassionate grounds, is arbitrary and contrary to the law laid down by the Hon'ble Apex Court in the judgments referred to above. Accordingly, the impugned order dated 21.01.2026 passed by opposite party no. 4 is **set aside**. The matter is remitted to the concerned Sub-Divisional Magistrate to pass a fresh order in accordance with law and in light of the observations made hereinabove. Consequently, the present petition is **allowed** with the aforesaid observations. The entire exercise shall be concluded by the Sub-Divisional Magistrate concerned within a period of two months from the date of production of a certified copy of this order before him.

(Arun Kumar Singh Deshwal,J.)

June 19, 2026

SA