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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
PAMIDIGHANTAM SRI NARASIMHA; J., ALOK ARADHE; J.
CIVIL APPEAL NO. 7667 OF 2025; JUNE 02, 2026
KULSUM NISHA versus STATE OF U.P. & ORS.

Essential Commodities Act, 1955 – Section 3 – Uttar Pradesh Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 – Clause 2(p) – Government Order No. 6 of 2019 dated 05.08.2019 – Paragraph IV(10) and Paragraph V – Compassionate Appointment / Allotment of Fair Price Shop – Exclusion of 'Married Daughter' from the definition of 'Family' – Constitution of India – Articles 14 and 15(1) – Gender-based Stereotype - Key Issue - Whether the blanket exclusion of a 'married daughter' from the definition of 'family' for the purpose of allotment of a fair price shop under the dependent/compassionate quota is constitutionally sustainable – Supreme Court held – i. Gender Discrimination and Arbitrary Classification - The Supreme Court held that the exclusion of a married daughter from the definition of "family" under Clause 2(p) of the 2016 Order and Paragraph IV(10) of the G.O. fails the test of reasonable classification and is manifestly arbitrary - The distinction lacks any intelligible differentia having a rational nexus with the welfare-oriented object of the scheme, which is to provide immediate financial relief to the dependent family of a deceased dealer; ii. Impermissible Stereotypes - Supreme Court observed that while a married son continues to be considered a part of the family, a daughter is excluded solely because of her marriage - This distinction is founded upon a gender-based stereotype that a daughter loses all ties with her natal family upon marriage which is incompatible with the constitutional guarantees of equality under Articles 14 and 15(1) of the Constitution; iii. Dependency as a Question of Fact - Dependency is a question of fact to be determined in each individual case and cannot be conclusively or speculatively presumed based entirely on marital status or assumptions regarding local residence; iv. Doctrine of Purposive Construction Applied - Applying the doctrine of purposive construction to avoid an unjust or arbitrary result, the Court read down the provision - The expression "daughter" in Clause 2(p) of the 2016 Order must be interpreted to include a married daughter, provided she establishes factual dependency on the deceased dealer, submits a dependency certificate along with No Objection Certificates (NOCs) from other adult family members, and satisfies all other eligibility criteria, including local residence. [Relied on *Shri Ram Krishna Dalmia & Ors. v. Shri Justice S.R. Tendolkar & Ors.*, 1958 SCC OnLine SC 6; *Budhan Choudhry v. State of Bihar & Ors.*, (1954) 2 SCC 791; *Shailesh Dhairyawan v. Mohan Balkrishan Lulla*, (2016) 3 SCC 619; Paras 18-27]

For Appellant(s): Mr. Anand Verma, Adv. Mr. Vivek Sura, Adv. Ms. Simran Verma, Adv. Mr. Shreyuss Shankar Joshi, Adv. Mr. Rohit Amit Sthalekar, AOR

For Respondent(s): Mr. Ankur Prakash, AOR

J U D G M E N T

ALOK ARADHE, J.

1. This appeal emanates from an order dated 05.03.2025 passed by the High Court of Judicature at Allahabad, Lucknow Bench (hereinafter referred to as “the High Court”) by which the claim of the appellant, who is a married daughter of the deceased dealer, for appointment as a fair price shop dealer on compassionate ground, has been rejected.

FACTUAL BACKGROUND

2. On 27.10.2012, a fair price shop located at village panchayat Aariyawan, Development Block and Tehsil Tiloi, District Amethi, was allotted to Smt. Badrun Nisha who was the mother of the appellant.

3. In exercise of the powers under Section 3 of the Essential Commodities Act, 1955 ('1955 Act'), the UP Government through Notification dated 10.08.2016 notified the Uttar Pradesh Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 ('2016 Order'). Clause 7(2)(i) of the 2016 Order refers to a 'person appointed' to run a fair price shop and does not prescribe any eligibility criteria of marital status. The power to identify dependents is delegated to the State Government. The State of Uttar Pradesh issued G.O. No. 6 of 2019 on 05.08.2019 ('G.O.') governing the 'identification, reservation, and appointment of fair price shops in rural areas. Paragraph V of G.O. describes the procedure for appointment of fair price shop under the dependent quota, after the death of the dealer. Paragraph IV of G.O. prescribes the essential qualifications and conditions for selection in rural areas. SubParagraph 10 of Paragraph IV, defines the expression 'family' which excludes 'married daughter'.

4. On 04.03.2024, the mother of the appellant passed away leaving, the appellant as the sole earning member of the household responsible for her four sisters, one of whom is visually impaired. The appellant even after her marriage continued to reside with her mother and sisters. The sub-Divisional Magistrate, Tiloi ('SDM') by an order dated 05.03.2024 ordered attachment of the fair price shop on the demise of the dealer, namely the mother of the appellant. On 19.03.2024, the appellant filed an application before the SDM seeking allotment of the shop in her capacity as a dependent. The SDM, by an order dated 16.07.2024, rejected the application solely on the ground that the appellant is a married daughter and is not covered within the definition of 'family' as provided in G.O. The Deputy Commissioner by an order dated 07.01.2025 affirmed the order of the SDM and dismissed the appeal.

5. The appellant challenged the aforesaid orders dated 16.07.2024 and 07.01.2025 passed by the SDM and the Deputy Commissioner respectively, in a Writ Petition. The High Court by an order dated 05.03.2025 *inter alia* held that it is bound by the Division Bench decisions of the High Court in **Smt. Kusumlata**¹ and **Saida Begum**² and held that the appellant is not entitled for compassionate appointment, as a dealer to run the fair price shop. The learned Single Judge however, noted the contrary view taken by the Bombay High Court³ and observed that the question raised is of seminal importance, as it concerns the rights of married daughters who are adversely affected solely on the ground of the marriage. The High Court, therefore, granted a certificate under Article 134-A of the Constitution of India and held that the matter involves a substantial question of law of general importance. The writ petition was, however, dismissed. In the aforesaid factual background, this appeal arises for our consideration.

SUBMISSIONS

6. Mr. Anand Verma, learned counsel for the appellant submitted that exclusion of married daughter from beneficial allotment scheme, lacks any intelligible differentia or rational nexus with the object of the scheme, and violates Fundamental Rights guaranteed under Articles 14, 15(1), 19(1)(g) and 21 of the Constitution of India. It is urged that the

¹ Special Appeal No.89 of 2022

² 2023:AHC-LKO:11230-DB

³ Ranjana Murlidhar Anerao v. State of Maharashtra & Ors.; 2014 (5) Mah LJ 543

marital status of a woman bears no constitutional relevance to eligibility for a welfare scheme. It is pointed out that there is conflict of opinion amongst the High Courts with regard to the eligibility of the married daughters for welfare schemes, which warrants an authoritative resolution by this Court to ensure consistency and uniformity in the application of the Fundamental Rights. In support of his submissions, reliance has been placed on the decisions of the Calcutta and Karnataka High Courts⁴.

7. Mr. S.R. Singh, learned senior counsel for the State of Uttar Pradesh, on the other hand, submitted that the plea of discrimination involving Articles 14, 15 and 19(1)(g) of the Constitution is misconceived and the classification between an unmarried daughter, a judicially separated daughter and a married daughter is a reasonable classification and the issue regarding violation of Articles 14, 15 and 19(1)(g) of the Constitution of India does not arise, as discrimination is among the same class. It is contended that one of the essential qualifications mentioned in sub-Paragraph 5 of Paragraph IV of G.O. provides that an applicant must be a local resident and it cannot be gainsaid that a married daughter is not a resident of the village as she shifts to her in-laws house in a different village. It is submitted that equal protection means Right to Equal treatment in similar circumstances, both in privileges conferred and liabilities imposed and persons who are unequally circumstanced cannot be treated on a par. In support of the aforesaid submissions, reliance has been placed on the decisions of this Court⁵.

8. Ms. Rukhmini Bobde, learned Amicus Curiae submitted that the compassionate appointment is an exception to the general rule of public employment based on merit and open competition, which is intended to provide immediate financial relief to the family of deceased employee and is not a matter of inheritance or automatic entitlement. It is urged that the same is granted on humanitarian grounds to meet the sudden crisis occurring in a family on account of death of breadwinner of a family. It is contended that marital status alone of an applicant is an irrelevant consideration and would fall foul of Articles 14 to 16 of the Constitution of India. It is urged that the dependency is a pure question of fact which an applicant must satisfy to be considered for appointment or allotment on compassionate grounds. It is urged that the definition of 'family' as provided in the scheme offends the object and purpose of the scheme and is violative of Articles 14 and 16 of the Constitution of India.

9. It is submitted that the divergent views have been taken by various High Courts with regard to entitlement of married daughters for beneficial schemes. It is urged that

⁴ State of West Bengal & Ors. v. Purnima Das & Ors., 2017 SCC OnLine Cal 13121; Anjana Modak v. State of West Bengal & Ors., 2019 SCC OnLine Cal 6775; Sulekha Gorain v. State of West Bengal & Ors., 2019 SCC OnLine Cal 9354; Smt. G.V. Hemavathi v. State of Karnataka & Ors.; Writ Pet. No.51361 pf 2019 (GM-PDS); Indira & Anr. v. State of Karnataka & Anr., 2024, SCC OnLine Kar 6749 and Bhuvaneshwari V. Puranik v. State of Karnataka, Department of Personnel and Administrative Reforms & Ors.; 2020 SCC OnLine Kar 33974881; V. Somyashree v. Director of Treasuries in Karnataka & Anr., ILR 2019 KAR 3139; Meenakshi Dubey v. M.P. Poorva Kshetra Vidyut Vitran Co. Ltd. & Ors., ILR 2020 MP 647; N. Uma v. Director of Elementary School Education, DPI Compound & Ors., 2017 SCC OnLine Mad 37756; R. Govindammal v. The Principal Secretary, Social Welfare and Nutritious Meal Programme Department & Ors., (2015) 3 LW 756; Bhanuprava Garnaik v. State of Odisha, 2022 SCC OnLine Ori 4096; Kshirabadi Bala Behera v. Orissa Administrative Tribunal, (2022) W.P. (C) No.14945 of 2015; Abha Kumari v. Bank of India & Ors., 2024 SCC OnLine Pat 5529; Amarjit Kaur v. State of Punjab & Anr., 2020 SCC OnLine P&H 4490; Meenakshi Trivedi v. State of Rajasthan & Ors., (2024) 1 RLW 703; Shaheen Sultana & Anr. v. State of Telangana & Ors., 2025 SCC OnLine TS 1278; State of Tripura & Ors. v. Debashri Chakraborty, 2022 SCC OnLine Tri 58 and Udham Singh Nagar District Co-op Bank & Anr. v. Anjula Singh & Ors., AIR 2019 Utt 69

⁵ Agnigundala Venkata Ranga Rao v. Indukuru Ramachandra Reddy (D) by LRs & Ors., (2017) 7 SCC 694; Kishan Singh & Ors. v. State of Rajasthan & Ors., (1955) 2 SCC 136; T.M.A. Pai Foundation & Ors. v. State of Karnataka & Ors., (2002) 8 SCC 481; Govt. of A.P. & Anr. v. Maharashi Publishers Pvt. Ltd. & Ors., (2003) 1 SCC 95; Amita v. U.O.I. & Anr., (2005) 13 SCC 721; State of U.P. & Ors. v. Maqbool Ahmad, (2006) 7 SCC 521; Soma Chakravarty v. State Thr. CBI, (2007) 5 SCC 403 and State of Punjab & Anr. v. Balkaran Singh, (2006) 12 SCC 709

impugned Clause excluding married daughters, deserves to be struck down being violative of Articles 14 to 16 of the Constitution. It is pointed out that in the instant case, the appellant has actively assisted her mother in running the fair price shop and on her demise has assumed the responsibility of maintaining visually impaired sister. It is, therefore, contended that the application of the appellant ought to be considered on its own merit by the competent authority. In support of the aforesaid submissions, reliance has been placed on the decisions of this Court⁶ as well as various High Courts⁷.

10. We have considered the rival submissions and have perused the records.

RELEVANT PROVISIONS OF 2016 ORDER AND THE G.O.

11. Before proceeding further, it is apposite to make note of relevant provisions of 2016 Order, and the G.O. Clause 2(p) of 2016 Order defines ‘family’ means groups of following persons:

- “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 widowed daughters; and
- Fully dependent mother/father of the head of the family.”

11.1 Clause 7 of 2016 Order deals with appointment and regulation of fair price shop. Clause 7(2) empowers the State Government to provide essential qualifications and conditions of eligibility of a person entitled to run a fair price shop. Clause 7(2)(ii) mandates a person who runs a fair price shop, to act as an agent of the Government.

12. In pursuance of the 2016 Order, the State Government has issued G.O. which provides for identification, reservation and appointment of fair price shops in rural areas. Clause IV of the G.O. prescribes the essential qualifications and conditions of selection in rural areas which reads as under:

“IV Essential Qualifications & Conditions for Selection in Rural Areas:

1. Applicant must have a minimum balance of Rs.40,000/- in their bank account to ensure financial capability to lift one month's stock at once.
2. Applicant must submit a character certificate issued by the District Magistrate.
3. Applicant must have passed at least High School (10th standard) or equivalent examination.
4. Applicant must be at least 21 years old, and no other family member, should be an allottee of a fair price shop.
5. Applicant must be a local resident.

⁶ State of Karnataka v. C.N. Apoorva Shree (Order dated 17.12.2021); Savita Samvedi (Ms) and Anr. Union of India & Ors., (1996) 2 SCC 380; C.B. Muthama v. Union of India, (1979) 4 SCC 260; Director of Treasuries in Karnataka and Anr. v. V. Somyashree; (2021) 12 SCC 20; State of Maharashtra and Anr. v. Madhuri Maruti Vidhate, 2022 SCC OnLine 1327

⁷ Smt. Vimla Srivastava v. State of U.P. & Anr.; 2015 SCC OnLine All 6776; Kusumlata v. State of U.P. & Ors. U.P. 2021 SCC OnLine All 826; Saida Begum (supra); Sripalli Ammulu v. State of Andhra Pradesh & Ors. 2024 SCC OnLine AP 4718; Aparna Narendra Zambre & Anr. v. ASE Sangli and Ors., 2011 (5) Mah LJ 290; Ranjana Murlidhar Anerao (supra); Sou. Swara Sachin Kulkarni (Kumari Deepa Ashok Kulkarni) v. Superintending Engineer, Pune Irrigation Project Circle & Anr., 2013 SCC OnLine Bom 1549; State of West Bengal (supra); Smt. Sarojini Bhoi v. State of Chhattisgarh & Ors., 2015 SCC OnLine Chh 395; Deepa Rani Das v. State of Assam & Ors., (2017) 4 Gau LR 423; Mamta Devi v. State of H.P. & Ors., 2020 SCC OnLine HP 2125; Central Coalfields Limited v. Hemanti Devi & Ors., 2018 SCC OnLine Jhar 918; Bhuvaneshwari V. Puranik (supra); Manjula v. State of Karnataka; ILR 2004 KAR

6. Applicant must deposit an earnest money of Rs.1000/- via bank draft in favor of the District Supply Officer. This amount will be adjusted in the security deposit upon appointment.

7. Upon appointment, the applicant must deposit Rs.10,000/- as security and submit a Rs.100/- nonjudicial stamp paper. This will apply to new appointees. Existing dealers will be required to deposit security at prescribed rates.

8. No criminal case should be registered against the applicant or their family member, nor should they have been convicted in any criminal matter.

9. Neither the applicant nor any family member should have been an allottee of a fair price shop previously cancelled due to irregularities or involved in any heinous offence under Section 3/7 of the Essential Commodities Act, 1955, or any criminal offence under the Indian Penal Code.

10. Allotment of fair price shops shall not be made in favor of Gram Pradhan (Village Head) or their family members. The definition of "family" shall be as provided under the Uttar Pradesh Essential Commodities (Regulation of Sale and Distribution) Order, 2016, which is:

- Head of the family
- Husband/wife, including legally adopted Children
- Children fully dependent on the head of the family
- Unmarried, legally separated, and widowed daughters
- Parents fully dependent on the head of the family

11. If any fair price dealer or their family member, as defined above, is elected as Gram Pradhan, the allotment of their shop; shall be cancelled. This provision shall be effective from Government Order No.-276/29-6-02-162Sa()/01 dated 18.07.2002."

13. Paragraph (V) of the G.O. deals with procedure for allotment of a fair price shop under dependent quota after the death of the dealer. Paragraph (V) of the G.O. reads as under:

“(V) Procedure for Appointment of Fair Price Shop under Dependent Quota after Death of Dealer:

(i) The dependent shall Submit an application to the SubDivisional Magistrate within 30 days of the dealer's death, along with a dependency certificate and No Objection Certificates (NOCs) from other adult family members.

(ii) The dependent must fulfil the eligibility conditions prescribed under Para-IV of this Government Order.

(iii) The definition of "family" under the dependent category shall be as per Para-IV (10) of this order.

(iv) An additional period of 15 days may be given beyond the initial 30 days for submitting the application.

(v) The eligibility of the dependent shall be examined by the Tehsil Level Selection Committee, which will verify the dependency certificate, NOCs from other family members, and other documents.

(vi) Upon fulfilment of all conditions, the committee will recommend allotment of the shop to the dependent.

(vii) The entire process shall be completed within two months from the date of receipt of the application.

Clause (IV)5 requires that an applicant must be a local resident, whereas Clause IV(10) excludes married daughter from the definition of 'family'.

REASONS AND ANALYSIS

14. Article 14 of the Constitution of India, guarantees equality before the law and equal protection of the laws. Article 15(1) prohibits discrimination on the grounds of religion, race, caste, sex or place of birth. Article 21 protects the right to live with dignity. These guarantees must be interpreted in light of the constitutional commitment to secure social and economic justice embodied in the Directive Principles of State Policy. Article 39(a), in particular, mandates that the State direct its policy towards securing that men and women equally have the right to an adequate means of livelihood. Article 39(c) provides that the State shall direct its policy to ensure that operation of economic system does not result in the concentration of wealth and means of production to the common detriment.

15. The 1955 Act and 2016 Order have been framed to ensure equitable distribution of essential commodities through the public distribution system. Fair price shop dealers perform an important public function in furtherance of this constitutional objective. The scheme providing allotment under the dependent quota upon the death of a dealer is intended to mitigate the immediate hardship suffered by the family of the deceased dealer and to ensure continuity in the functioning of the public distribution system.

16. The solitary issue which arises for consideration in this appeal is whether exclusion of the married daughter from the definition of ‘family’ as defined under Clause 2(p) of the 2016 Order and as referred to in Paragraph (IV)10 of the G.O. is constitutionally sustainable.

17. A Constitution Bench of this Court⁸ after taking note of a decision rendered by seven Judge Bench of this Court⁹ has held that Article 14 of the Constitution forbids class legislation, but permits reasonable classification for the purposes of legislation. A classification, however, must satisfy two conditions, firstly, it must be founded upon an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group, and secondly the differentia must have a rational relation to the object sought to be achieved by the statute in question. The doctrine of equality has, over time, evolved beyond a narrow classification test. State action, which is arbitrary, irrational, capricious, or founded on impermissible stereotypes is equally vulnerable to challenge under Article 14¹⁰.

18. Examined on the touchstone of these principles, the exclusion of a married daughter from the definition of “family” cannot be sustained. The object of allotment under the dependent quota is to provide immediate succour to the family of a deceased dealer facing financial hardship. The relevant considerations are dependency, financial need, residence, and the ability of the applicant to discharge the obligations attached to the dealership. Marital status bears no rational nexus to any of these considerations.

19. The impugned provision proceeds on the assumption that upon marriage a daughter ceases to be a member of, or dependent upon, her parental family. Such an assumption is constitutionally impermissible. Marriage neither extinguishes the bond between a daughter and her parental family nor furnishes a valid basis to presume absence of dependency. Contemporary social realities demonstrate that many married

⁸ Shri Ram Krishna Dalmia & Ors. vs. Shri Justice S.R. Tendolkar & Ors., 1958 SCC OnLine SC 6

⁹ Budhan Choudhry vs. State of Bihar & Ors.; (1954) 2 SCC 791

¹⁰ Bombay Dyeing & Mfg. Co. Ltd. vs. Bombay Environmental Action Group & Ors., (2006) 3 SCC 434; A.P. Dairy Development Corporation Federation vs. B. Narasimha Reddy, (2011) 9 SCC 286; Shayara Bano vs. Union of India & Ors., (2017) 9 SCC 1; K.S. Puttuswamy & Anr. vs. Union of India & Ors., (2017) 10 SCC 1; Nikesh Tarachand Shah vs. Union of India & Anr., (2018) 11 SCC 1

daughters continue to reside with, support, or remain dependent upon their parents. Equally, there may be sons who are not dependent upon the family despite being included within the definition. Dependency is a question of fact and cannot be conclusively determined by reference to marital status alone.

20. Significantly, the scheme does not exclude a married son from consideration. A son continues to remain within the fold of the family irrespective of his marital status, whereas a daughter is excluded solely because she is married. The distinction is founded upon a gender-based stereotype that a daughter, upon marriage, becomes a member of another family and loses all ties with her natal family. Such a presumption is incompatible with the constitutional guarantee of equality and perpetuates historical notions of gender inequality which the Constitution seeks to eradicate.

21. The submission of the State that a married daughter may not satisfy the requirement of local residence is equally untenable. Residence constitutes an independent eligibility criterion under Paragraph IV(5) of the G.O. Whether an applicant satisfies that requirement must be determined on the facts of each case. A blanket exclusion of all married daughters cannot be justified on the speculative assumption that every married daughter necessarily resides elsewhere. Constitutional adjudication cannot be founded on presumptions that are overbroad and disconnected from lived realities.

22. The purpose of the dependent quota is neither to create a right of succession or inheritance in the dealership nor a reward for lineage. The object is limited and specific: to provide immediate financial relief to the dependent family of a deceased dealer and to ensure continuity in the public distribution system. Once dependency is accepted as the governing criterion, exclusion of a married daughter solely on account of her marital status becomes wholly irrational and self-defeating.

23. We are, therefore, of the considered view that the exclusion of married daughters from the definition of “family” fails the test of reasonable classification and is manifestly arbitrary. The distinction created by Paragraph IV(10) of the G.O. lacks any intelligible differentia having a rational nexus with the object of the scheme. The exclusion is founded solely upon marital status and gender stereotypes and consequently, violates Articles 14 and 15(1) of the Constitution of India.

THE DOCTRINE OF PURPOSIVE CONSTRUCTION

24. Now, we advert to the issue whether the words “unmarried, legally separated and widowed daughters” are required to be struck down or can be read in a manner so as to include married daughters. The literal meaning of aforesaid words employed in Clause 2(p) of the 2016 Order produces a result which is incompatible with constitutional guarantees of equality and nondiscrimination. The principle of purposive construction is based on the understanding that the Court is supposed to attach that meaning to a provision which serves the purpose behind it, the basic approach being to ascertain is what the provision is designed to accomplish. When the language of an enactment is reasonably capable of more than one meaning, the Court is not merely permitted but is obliged to prefer that construction which promotes the provision and avoids a result that would be arbitrary or unjust. The Court should adopt purposive interpretation in cases where the literal interpretation may not serve the purpose or may lead to absurdity¹¹.

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

¹¹ Shailesh Dhairyawan v. Mohan Balkrishan Lulla; (2016) 3 SCC 619

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 a 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.

27. We are in agreement with the view taken in **Vimla Srivastava** (supra) by the Division Bench of the Allahabad High Court and the decisions of the Bombay, Karnataka and Calcutta High Courts which have recognised the principle that marital status cannot constitute a valid ground for denying the benefit of a welfare measure to an otherwise eligible daughter. To the extent the contrary view expressed in **Saida Begum** and **Smt. Kusumlata** (supra), does not lay down the correct law and stand overruled.

CONCLUSION

28. In the present case, the material on record establishes that the appellant continued to reside in the same village even after her marriage and actively assisted her mother in the operation of the fair price shop. The appellant upon her mother's demise, assumed responsibility for maintaining her sisters, including a visually impaired sister. The authorities have not disputed these factual assertions. The sole ground on which her application was rejected was that she is a married daughter. Once that ground is held to be constitutionally invalid, no impediment survives to the grant of relief in her favour.

29. Consequently, the orders dated 05.03.2025, 07.01.2025 and 16.07.2024 passed by the High Court, Deputy Commissioner and the SDM respectively are quashed and set aside. The competent authority shall issue the necessary allotment order in favour of the appellant within a period of four weeks.

30. Before parting with the matter, we place on record our appreciation for the valuable assistance rendered by the learned Amicus, Ms. Rukhmini Bobde.

31. The appeal is accordingly allowed. There shall be no order as to costs.