

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.15752 of 2014**

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Ful Kumari Devi W/o - Jaikant Sahani resident of Village - Mirzapur, Songar Panchayat, Prakhand - Morva, P.S. - Tajpur, District - Samastipur.

.... .... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The District Magistrate, Samastipur.
3. The Sub Divisional Officer, Samastipur.
4. The District Supply Officer, Samastipur.
5. The Block Supply Officer, Prakhand - Morva, District - Samastipur.
6. The Divisional Commissioner, Darbhanga.

.... .... Respondents

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**Appearance :**

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| For the Petitioner | : | Mr. R. S. Pradhan, Sr. Advocate,<br>Mr. Amrendra Narayan Rai,<br>Mr. J. Kumar, Advocates |
| For the State      | : | Mr. Ashok Kumar, S.C. 11,<br>Mr. Amresh, A.C. to S.C. 11                                 |

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**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN**

**ORAL JUDGMENT**

**Date: 01-03-2016**

I have heard the parties and have perused the records of this case.

Petitioner is aggrieved by the order dated 18.01.2014 passed by the Commissioner, Darbhanga Division under Clause 15(b) of the Public Distribution System (Control) Amendment Order, 2011 affirming the decision taken the by the appellate authority which is dated 28.05.2013 appended as Annexure 4 and which was preferred against the order dated 18.12.2012 passed by the Sub-Divisional Officer-cum-Licensing Authority, Samastipur by which he has

cancelled the licence of the petitioner granted for running the PDS shop.

In this case, original records have been produced.

It appears that two show cause notices were issued against the petitioner by the Licensing Authority setting out certain charges which have been dealt with in the impugned order (Annexure 3) but none of them were answered, however, on 03.12.2012 the petitioner filed application stating that she is suffering from several ailments including the mental ailment and for which she has been treated by several doctors. The doctors have advised her bed rest, therefore, she was unable to run the PDS shop and, as such, she has requested to grant leave till she overcomes her ailments. The Sub-Divisional Officer has found the charges to be proved on the basis of the enquiry and had cancelled her licence. The petitioner preferred appeal belatedly after several months. The appeal was preferred without any petition for condoning the delay and, as such, the same was dismissed on the ground of limitation. The petitioner preferred revision which was heard and dismissed on merit.

Learned counsel for the petitioner has urged that since the impugned order, as contained in Annexure 3, was not communicated to the petitioner, the delay has occurred in preferring the appeal, therefore, the appeal should have been heard on merit and

revisional order is also wrong as the revisional authority has also decided the case on merit though order of appeal under revision was rejected only on ground of limitation.

I find no force in the submission raised on behalf of the petitioner inasmuch as the petitioner could well have filed the appeal along with a petition for condoning the delay. The same was not done, however, the matter appears to have been heard by the revisional authority in detail and it has recorded a finding that the petitioner never filed any application for leave prior to the enquiry and issuance of show cause notice, thus, the same appears to be an afterthought. She could well have filed a reply to the show cause notice also along with an application for grant of leave but after show cause notice having been issued, she filed an application for leave on the ground of ailment. If the petitioner herself has not claimed that any petition for grant of leave in view of her ailment was ever filed prior to the concerned enquiry and issuance of show cause notice, thus, non-filing of any reply to the show cause notice, in my view, gives a fatal blow to the case of the petitioner.

As a result, this application fails and is dismissed.

Sanjay-II/-

**(Dr. Ravi Ranjan, J)**

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