

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8611 of 2017

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Jeetendra Kumar son of Ramji Pandey, resident of Village - Ekdandi, Panchayat
- Pairhar Uttari, Block - Parihar, District - Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through its Secretary, Food and Civil Supply Department,
Govt. of Bihar, Patna.
2. The District Magistrate, Sitamarhi.
3. The Sub-Divisional Officer, Sitamarhi Sadar, Sitamarhi.
4. The Sub Divisional Officer, Parihar, Sitamarhi.
5. The Block Development Officer, Parihar, Sitamarhi.

.... Respondent/s

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Appearance :
For the Petitioner : Mr. Ashhar Mustafa, Advocate.
For the Respondents : Mr. Sanjay Kr.Giri, GP-9

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 16-01-2018

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for setting
aside the order dated 21.09.2016 contained in office Memo No. 379
passed by Sub-Divisional Officer, Sitamarhi (respondent no. 3) by
which the Public Distribution Shop (hereinafter, PDS) license of the
petitioner granted under Bihar Trade Articles (License Unification)
Order, 1984 was cancelled.

3. Learned counsel for the petitioner submits that the
impugned order is wholly arbitrary and illegal. The statements of
consumers allegedly complaining against the performance of the



petitioner have not been supplied to the petitioner nor was the enquiry report made available prior for passing of the impugned order. Moreover, insufficient opportunity of only three days was granted for filing show cause by the petitioner which violates principles of natural justice. It is submitted that the petitioner's case is squarely covered by a decision of this Court in the case of *Smt. Fulpati Devi Vs. The State of Bihar, 2013(1) PLJR 718*, wherein it has been observed as follows:

"3. Learned counsel for the petitioner submits that the petitioner could not know about the notice as she was ill during the period. Hence, she did not file show cause and in her absence the Sub-Divisional Officer passed the impugned order cancelling her licence. He also submits that in appeal petitioner had brought this issue as ground no. (B) in the memo of appeal but the Collector has not considered the same and has brushed aside the ground taken by the petitioner and held that the ground of illness taken by the petitioner appears to be 'Post Thought'. He submits that illness or no illness, only three days time was allowed by the Sub-Divisional Officer, which was very short, and thereafter, he passed final orders within one week, without ensuring that notice was served on her.

4. Learned counsel for the petitioner appears to be correct. From the impugned order of the Sub-Divisional Officer also it does not appear that he has take care to ascertain service of notice was affected on the petitioner or not. The fact that after issue of notice on 16th of November, 2011 he passed final orders on 22nd of November, 2011 without mentioning in his order that the notice had been served on the petitioner, shows that he acted in hot haste."



4. In the above view of the matter, the impugned order dated 21.09.2016 (Annexure-3) is set aside and the matter is remanded to the Sub-Divisional Officer, Sitamarhi Sadar, Sitamarhi (respondent no. 3) to take a fresh decision in the matter after grant of reasonable opportunity of hearing to the petitioner in accordance with law.

5. The writ petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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