

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12346 of 2017

=====

Ram Bilash Ram, Son of Late Ram Bahadur Ram. Resident of Rupauli, P.S.-
Runni Saidpur, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Sitamarhi.
2. The District Magistrate, Sitamarhi.
3. The Sub-Divisional Officer Sitamarhi.
4. The Block Supply Officer, Runni Saidpur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Ms. Kumari Sujata Sinha, Adv
For the Respondent/s : Mr. SANJAY KUMAR GIRI - GP9

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-05-2018

I.A. No. 3449 of 2018

The interlocutory application has been filed with the prayer for amendment of the prayer in the writ petition to the extent that this writ petition is being also filed for setting aside the show cause notice dated 09.02.2017 (Annexure-2) and dated 11.02.2017 (Annexure-3) passed by the learned SDO, Sitamarhi Sadar because the same is not in accordance with law enumerated in clause 7 (ii) of the PDS Control Order 2001.

2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated to form part of the writ petition.

CWJC No. 12346 of 2017

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

4. The present writ petition has been filed for quashing of the order contained in memo no. 353 dated 06.07.2017 passed by learned



Sub-Divisional Officer, Sitamarhi Sadar whereby the licence of the petitioner's to run the public distribution shop being Licence no. 3 of 1994/54 of 2008 has been cancelled.

5. Learned counsel for the petitioner submits that an insufficient opportunity of three days was granted for filing show cause and the impugned order has been passed as the petitioner was unable to file the show cause within the stipulated time. However, he submitted reply to the show cause notice by his application dated 17.02.2017 (Annexure-4). 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.”

5. In the above view of the matter, the impugned order dated 06.07.2017 (Annexure-1) and the show cause notices dated 09.02.2017 (Annexure-2) and 11.02.2017 (Annexure-3) are hereby set aside and the matter is remanded to the Sub-Divisional Officer, 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. Supplies to the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 3.

6. The writ petition stands allowed.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.05.2018
Transmission Date	NA

