

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11844 of 2014

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Chandradeo Ram son of Ram Kishun Ram, Resident of village- Husaina, P.S.-
Ballia, District- Begusarai

.... Petitioner

Versus

1. The State of Bihar, through the Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna
2. The Director, Department of Food and Civil Supplies, Government of Bihar, Patna
3. The Divisional Commissioner, Munger.
4. The District Magistrate, Begusarai
5. The Sub-Divisional Officer, Sub-Division, Ballia
6. The District Supply Officer, Begusarai
7. The Block Supply Officer, Block Ballia, District- Begusarai
8. The Block Development Officer, Ballia, District- Begusarai

.... Respondents

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Appearance :

For the Petitioner : Mr. Nakul Kumar Jamuar, Advocate

For the Respondents : Mr. Krishna Kumar, AC to GP26

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-08-2018

Heard learned counsel for the petitioner as well as learned
counsel for the respondents.

2. The present writ petition has been filed for the following
reliefs –

*“(i) A certiorari setting side the order dated 9.1.2008
passed by the Respondent S.D.O. Ballia in Case No. 1/2007
whereby and whereunder the P.D.S. shop Licence of the
petitioner has been illegally be cancelled on the basis of
baseless allegation by the Respondent Authorities.*

*(ii) Further also setting aside the order dated 10.1.2012
passed by the learned Collector Cum District Magistrate,*



Begusarai, in Misc. Appeal case No. 30/2008, whereby and whereunder the learned Collector the case of the petitioner dismissed for default on 10.1.2012, while the petitioner was present till 21.8.2010 but the learned Collector was never attend the covert, thereafter the petitioner also give-up to attend the court and ultimately the case was dismissed for default, which is clear from the order sheet.

(iii) A mandamus commanding and directing the Respondents concerned to allow the petitioner to run his P.D.S. shop in accordance with law.

(iv) And/Or any other relief or reliefs for which the petitioner is found entitled to in the facts and circumstances of the case.”

3. 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. In fact, there is nothing on the record to indicate that the show cause notice had been served on the petitioner. 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 appellate order dated 10.01.2012 passed by learned Collector, Begusarai in Misc. Appeal Case No. 30/2008 (Annexure-4) and the impugned order dated 09.01.2008 passed in Case No. 1/2007 (Annexure-3) are hereby set aside and the matter is remanded to the Sub-Divisional Officer, Ballia, District Begusarai (respondent no. 5) to take a fresh decision in the matter after grant of reasonable opportunity of hearing to the petitioner in accordance with law. Licence of the petitioner shall be restored



without delay until fresh orders are passed by the respondent no. 5.

5. The writ petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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Transmission Date	N.A.

