

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11770 of 2016

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Pakko Ravidas, Son of Jageshwar Das, resident of village-Lalsahiya, P.S. -
Dhoraiya, District- Banka.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The District Magistrate, Banka.
3. The Sub- Divisional Officer, Banka.
4. The Block Civil Supplies Officer, Baunsi, District- Banka.

.... Respondents

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Appearance :

For the Petitioner : Mr. Pramod Mishra, Advocate

For the Respondents : Mr. Akhilesh Kr. Sinha, AC to SC 19

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 16-05-2018

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) Certiorari setting aside the order dated 15.05.2012 passed by the Respondent District Magistrate, Banka in Supply Appeal Case No. 54/2008-09, whereby and whereunder the Respondent Appellate Authority has in a very casual, mechanical and illegal manner affirmed the illegal order passed by the Respondent Sub-Divisional Officer vide Memo No. 632 date 18.10.2008 cancelling the Public Distribution Shop (P.D.S.) licence of the petitioner without affording him sufficient opportunity of hearing and rejected the appeal without proper consideration of arguments and materials adduced on



behalf of the petitioner which cannot sustain in the eye of law for being violative of principle of Natural Justice.

(ii) A further certiorari setting aside the order contained in Memo No. 632 dated 18.10.2008 passed by the Respondent Sub-Divisional Officer in a very suspicious, haste and arbitrary manner cancelling the P.D.S. licence No. 3/93 of the petitioner without giving him proper and sufficient opportunity of hearing which is very much violative of Principle of Natural Justice.

(iii) A Mandamus commanding and directing the Respondents concerned to restore/reinstate the P.D.S. licence No. 3/93 in the name of the petitioner and allow him to run the shop smoothly in accordance with rules and procedures as the petitioner ever since issuance of his licence way back in the year 1993 running the shop in very honest and punctual manner to the full satisfaction of his customers as also the Departmental authorities, but now after elapse of 1 and ½ decades at the instance of some vested interest such complain has been made, as there has been absolutely no complaint against this petitioner althrough these years, and now under a conspiracy his licence has been got cancelled whereas this shop is the only source of livelihood of a big family of the petitioner.

(iv) And/or for any other relief/reliefs for which the petitioner is found entitled to in the facts and circumstances of this 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 15.05.2012 passed by the District Magistrate, Banka in Supply Appeal Case No.54/2008-09 (Annexure-3) and the impugned order dated 18.10.2008 (Annexure-1) are hereby set aside and the matter is remanded to the Sub-Divisional Officer, Banka, District Banka (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)

B.T/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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