

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5351 of 2017

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Md. Alim, Son of Late Md. Tejal, Vendor License no. 06/88 of K.Oil and resident of Village- Madhurapur, Bazar Ward No.03 Panchayat Sighpur East 08 Narayanpur, P.S.- Bihpur (Bhawanipur) District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. Principal Secretary, Food and Supply, Govt. of Bihar, Patna.
3. The Commissioner, Bhagalpur Division, Bhagalpur.
4. The District Magistrate cum Collector, Bhagalpur.
5. The Sub Divisional Magistrate cum Supply Officer, Naugachia, Bhagalpur.
6. The Block Supply Officer, Narayanpur, Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Amrendra Kumar, Advocate.

For the Respondents : Smt. Namrata Mishra, GA-6

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 13-07-2018

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

2. The present writ petition has been filed for quashinof order dated 22.01.2015 bearing Gyapank No. 46 Aaa (2) dated 27.09.2016 passed in E.C. Aapusti appealvad no. 69/2014-15 and (3) dated 25.02.2017 in vividh (Aapurti) Revision Appeal Case No. 14/2016-17 passed by S.D.O. Naugachia, D.M. Bhagalpur and Commissioner Bhagalpur Division, Bhagalpur by which the PDS license of the petitioner has been cancelled.

3. Learned counsel for the petitioner submits that an



insufficient opportunity of 24 hours 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 impugned order dated 22.01.2015 (Annexure-4), appellate order dated 27.09.2016 (Annexure-5) and revisional order dated 25.02.2017 (Annexure-6) are hereby set aside and the matter is remanded to the Sub-Divisional Magistrate cum Supply Officer, Naugachia, Bhagalpur (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 as above.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19.07.2018
Transmission Date	N.A.

