

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.60 of 2018

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Rajendra Prasad Yadav, S/o Late Rameshwar Prasad Yadav, Resident of
Village- Raghunibigha, P.S.- Fatehpur, District- Gaya.

.... Petitioner

Versus

1. The State of Bihar through Secretary Food & Consumer Protection
Department, Old Secretariat, Patna.
2. The District Magistrate, Gaya.
3. The District Supply Officer, Gaya.
4. The SDO, Sadar Gaya.
5. The Block Supply Officer, Fatehpur, Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Anand,

Mr. Anujit Sinha, Advocates

For the Respondents : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 19-03-2018

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

2. The present writ petition has been filed challenging
the order dated 10.11.2017 passed by SDO Sadar Gaya fully
contained in Memo No. 738 whereby and whereunder the PDS
licence bearing Licence No. 30/2007 granted to the petitioner for
running a PDS shop within Panchayat Bara Block, Fatehpur, District
Gaya was cancelled.

3. Learned counsel for the petitioner submits that the
petitioner was granted only three days' time to reply to the show
cause notice dated 28.10.2017 (Annexure-1) which was clearly



insufficient. As such, the petitioner was unable to file his reply to the said show cause notice as he was ill and was under treatment of Dr. Girijesh Kumar, Fatehpur, Gaya at the relevant time (Annexure-2). 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. Learned counsel for the respondents appears and has been heard. No counter affidavit has been filed till date.

5. In the above view of the matter, the impugned order dated 10.11.2017 contained in Memo No. 738 passed by the Sub-Divisional Officer, Sadar Gaya (Respondent No. 4) is hereby quashed and the matter is remanded to him 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. 4.

6. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.03.2018
Transmission Date	N.A.

