

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7184 of 2018

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Naresh Prasad, Son of Loka Saw, Resident of Village-Kalhadihi, Village Panchayat-Bahsapipra, Police Station-Fatehpur, District-Gaya.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub-Divisional Officer, Sadar Gaya.
4. The Block Supply Officer, Tankuppa, Dist.-Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate

For the Respondents : Mr. Alok Ranjan, AC to AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-05-2018

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

2. The present writ petition has been filed for quashing the order contained in Memo No. 998 dated 13.12.2017 by which learned Sub-Divisional Officer, Sadar Gaya has cancelled the licence no. 01/2016 (new) 01/07 (old) of the petitioner for carrying on business under Public Distribution System as a PDS dealer; and for direction to the respondent no. 3 to continue allocation to the PDS shop of the petitioner.

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 impugned order contained in Memo No. 998 dated 13.12.2017 (Annexure-2) is hereby set aside and the matter is remanded to the Sub-Divisional Officer, Sadar Gaya (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/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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