

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8328 of 2018

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Nand Lal Prasad, son of Shivbalak Singh, resident of Village- Panari, Police Station- Belaganj, 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, Belaganj, District- Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Binay Kumar, Advocate

For the Respondents : Mr. S. Raza Ahmad- AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-05-2018

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. This writ application has been filed for quashing the order dated 16.03.2018 contained in memo No. 316 passed by the Licensing Authority-cum-Sub-Divisional Officer, Sadar Gaya, whereby the license No. 15/07 of the petitioner grant under the Public Distribution System (Control) Order, 2007 and now under the Bihar Targeted Public Distribution System Control Order, 2016 has been cancelled; and for further direction upon the respondent No. 3 to continue allocation to the PDS Shop of the petitioner; and connected reliefs.

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. 316 dated 16.03.2018 (Annexure-2) is hereby set aside and the matter is remanded to the Sub-Divisional Officer, Sadar Gaya, 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/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.05.2018
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