

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3721 of 2014

=====

Rameshwar Rishideo, Son of Late Bhagwat Rishideo, resident of Dhobina
Tikkar Panchayat, Bisturia, P.S.- Raniganj, District - Araria

.... Petitioner

Versus

1. The State Of Bihar through the Collector, Araria
2. The Sub Divisional Officer, Araria
3. The Marketing Officer, Rafiganj, Araria

.... Respondents

=====

Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Advocate

Mr. D.N. Tewari, Advocate

For the Respondents : Mr. Nirmal Kr. Sinha No. 3, AC to AAG 15

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 31-07-2018

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

2. The present writ petition has been filed for setting aside
the order dated 07.09.2013 passed by the Collector, Araria in Misc.
Appeal No. 29/2012-13 by which he affirmed the order dated
21.12.2010 contained in Memo No. 1013/Aa passed by the Sub-
Divisional Officer, Araria by which licence of the petitioner being
Licence No. 18 R of 2007 for carrying on business under Public
Distribution System has been cancelled.

3. Learned counsel for the petitioner submits that an
insufficient opportunity of two 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 07.09.2013 passed by the Collector, Araria in Misc. Appeal No. 29/2012-13 (Annexure-5) and the impugned order dated 21.12.2010 contained in Memo No. 1013/Aa (Annexure-3) are hereby set aside and the matter is remanded to the Sub-Divisional Officer, Araria (respondent no. 2) 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. 2.

5. The writ petition stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.08.2018
Transmission Date	N.A.

