

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15611 of 2017

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1. Rupchand Choudhary Son of Late Makhu Choudhary Resident of Village Kekhra Panchayat Konchi, P.S. Guraru, District Gaya.

.... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supply Department, Government of Bihar, Patna.
2. Principal Secretary, Food and Civil Supply Department, Government of Bihar, Patna.
3. District Magistrate-cum-Collector, Gaya.
4. Sub-Divisional Officer-cum-Licensing Officer, Tekari, Gaya.
5. Block Supply Officer-cum-Marketing Officer, Guraru, District Gaya.

.... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh

For the Respondent/s : Mr. ARVIND UJJWAL-SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 04-05-2018

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

2. The present writ petition has been filed challenging the order dated 01.09.2017 passed by the Sub Divisional Officer, Tekari, Gaya fully contained in Memo No. 768 whereby and whereunder the PDS licence bearing Licence No. 44 of 2016 granted to the petitioner for running a PDS shop has been cancelled.

3. Learned counsel for the petitioner submits that an insufficient opportunity of 48 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. 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 01.09.2017 (Annexure-3) is hereby set aside and the matter is remanded to the Sub-Divisional Officer, Tekari, Gaya (respondent no. 4) 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.

5. The writ petition stands allowed.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
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