

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1649 of 2018

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Mina Devi, W/o Late Yadunandan Prasad Yadav, Resident of Village-Kumbhiyatari, Naudiha Jhurang, P.S.- Fatehpur, District- Gaya.

.... Petitioner

Versus

1. The State of Bihar through Secretary Food & Consumer Protection Department, Old Secretariate, Patna.
2. The SDO, Sadar Gaya.
3. The Block Supply Officer, Town, Gaya.
4. The Block Supply Officer, Belaganj, Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Anand
Ms. Sarita Kumari, Advocates

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

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-03-2018

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 30.12.2017 passed by SDO Sadar Gaya fully contained in Memo No. 1178 whereby and whereunder the PDS licence bearing Licence No. 02/2008 granted to the petitioner for running a PDS shop was cancelled.

3. Learned counsel for the petitioner submits that the petitioner was granted only three days' time to reply to the first show cause notice dated 11.06.2017 which was clearly insufficient. A second show cause notice was also issued to the petitioner on 23.12.2017 asking her to submit reply within 24 hours. As such, the petitioner was



unable to file her reply to the said show cause notices as she was ill and was under treatment of Dr. Surendra Prasad, Fatehpur, Gaya at the relevant time (Annexure-2 series). 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 order dated 30.12.2017 contained in Memo No. 1178 (Annexure-5) passed by the Sub-Divisional Officer, Sadar Gaya (Respondent No. 2) 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. 2.

6. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29.03.2018
Transmission Date	N.A.

