

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6578 of 2018

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Munnu Ravidas, Son of Doman Ravidas, Resident of Village-Mastpura, P.S.-
Bodh Gaya, District-Gaya.

..... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food & Consumer Protection, Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub Divisional Officer, Sadar, Gaya.
4. The District Supply Officer, Gaya.
5. The Block Supply Officer, Belaganj Gurua, Gaya.

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sudhir Kumar Sinha, Adv

For the Respondent/s : Mr. S. RAZA AHMAD-AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 17-04-2018

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

2. The present writ petition has been filed for quashing the
order contained in memo no. 161 dated 03.02.2018 passed by the Sub-
Divisional Officer, Sadar, Gaya by which licence of the petitioner's Fair
Price shop bearing no. 51/2007 has been cancelled and monthly
allotment has been stopped; and further to restore the petitioner's
licence.

3. Learned counsel for the petitioner invites attention to the
order contained in memo no. 488 dated 09.05.2017 by which the PDS
licence of the petitioner had earlier been suspended on the ground that



an FIR being Bodh Gaya P.S. Case No. 285/2017 had been instituted against him under Section 7 of the Essential Commodities Act with a direction to submit his show cause reply within three days. Learned counsel for the petitioner submits that an insufficient opportunity of three days was granted for filing show cause reply and the impugned order as contained in memo no. 161 dated 03.02.2018 has been passed cancelling the petitioner's PDS licence in violation of Rules 24 and 25 of the Bihar Targeted PDS (Control) Order, 2016 (for short 'PDS (Control) Order, 2016'). In fact, there is nothing on the record to indicate that a 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 orders dated 09.05.2017 (Annexure-3) and 03.02.2018 (Annexure-5) passed by the Sub-Divisional Officer, Sadar, Gaya, are hereby set aside and the matter is remanded to the Sub-Divisional Officer, Sadar, Gaya 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. 3.

5. The writ petition stands allowed.

(Vikash Jain, J)

Chandran/BT

FR/NAFR	NAFR
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