

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2817 of 2019

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Ajay Kumar Singh, aged about 48 years, Gender Male, S/o Sri Padum Singh
resident of Village -Khiriawan, P.S.-Wazirganj, District-Gaya

... .. Petitioner

Versus

1. The State of Bihar through Secretary, Food and Consumer Protection
Department, Old Secretariat, Patna
2. The District Magistrate, Gaya
3. The District Supply Officer, Gaya
4. The SDO, Sadar Gaya
5. The Block Supply Officer Town, Gaya

... .. Respondents

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Appearance :

For the Petitioner : Mr.Vijay Anand, Advocate
For the Respondents : Mr.Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date : 11-06-2019

This matter has been heard and is being taken up for final
disposal at the admission stage itself with consent of the parties.

2. The present writ petition has been filed for the
following reliefs as formulated by the petitioner.

*“(i) Challenging the order dated 04.01.2019 passed
by District Magistrate Gaya in Supply Appeal Case
no. 48/2017 by which the appeal preferred by the
petitioner/appellant was rejected and affirming the
order of cancellation of PDS License of the petitioner
passed by S.D.O. dated 23.9.2017.*

*(ii) Challenging the order dated 23.09.2017 passed by
SDO Sadar Gaya fully contained in Memo No. 600
whereby and whereunder the PDS license being
License no. 23/2007 granted to the petitioner for
carrying a PDS shop in the Village - Khiriawan was*



cancelled holding therein that the petitioner has failed to respond over the show cause dated 18.09.2017.”

3. Learned counsel for the petitioner submits that the petitioner was granted only three days' time to reply to the show cause notice 18.09.2017 which was clearly insufficient. As such 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. 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 appellate order dated 04.01.2019 passed by the District Magistrate, Gaya in Supply Appeal Case no. 48/2017 (Annexure-4) and the impugned order dated 23.09.2017 (Annexure-3) are hereby set aside and the matter is remanded to the Sub-Divisional Officer, Sadar 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. Licence of the petitioner shall be restored without delay until fresh orders are passed by the respondent no. 3.

5. The writ petition stands allowed as above.

(Vikash Jain, J)

BT/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.06.2019
Transmission Date	N.A.

