

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22137 of 2018

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Ram Avtar Rai, Son of Arjun Rai, Resident of Village- Madhepur Panchayat
Madhepur East, Block- Madhepur, P.S.- Bheja, District- Madhubani.

... .. Petitioner

Versus

1. The State Of Bihar through Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna
2. The District Magistrate-cum-Collector, Madhubani.
3. The Sub Divisional Officer, Jhanjharpur.
4. The Block Supply Officer, Madhepur.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Akash Chaturvedi, Advocate
For the Respondents : Mr.Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date : 10-06-2019

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 –

“(i) For issuance of writ in the nature of certiorari for quashing of the order dated 15.6.2018 passed by the District Magistrate-cum-Collector Madhubani in supply Appeal No. 26 of 2017-18 issued vide memo no. 3075 dated 7.9.2018 whereby the appeal preferred by the petitioner against the order of cancellation of his PDS license has been rejected outrightly without assigning any reasons in a very mechanical manner which is wholly illegal, unjustified and arbitrary.



(ii) For issuance of writ in the nature of certiorari for quashing of the order dated 12.10.2017 issued vide memo no. 552 dated 13.10.2017 issued by the Sub Divisional Officer Jhanjharpur whereby the PDS license issued to the petitioner under public Distribution System has been cancelled that too without considering the show cause reply filed by the petitioner and also without affording any opportunity of being heard in complete violation of principles of natural justice and also no enquiry report prepared muchless served upon the petitioner.

(iii) For issuance of writ in the nature of declaration holding that the entire action of the respondents in cancelling the PDS licence of the petitioner is arbitrary, illegal and against the Principles of natural justice therefore wholly without jurisdiction.

(iv) For issuance of writ in the nature of mandamus directing the respondents to restore the PDS license of the petitioner issued under public distribution system and start the supply of food grains thereof forthwith.

(v) For any other relief(s) for which petitioner is found entitled to in the facts and circumstances of the present case.

3. Learned counsel for the petitioner submits that an insufficient opportunity of three 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. 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 15.06.2018 (Annexure-6) as well as the impugned order dated 13.10.2017 (Annexure-4) are hereby set aside and the matter is remanded to the Sub-Divisional Officer, Jhanjharpur, District Madhubani (respondent no. 3) 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.

(Vikash Jain, J)

BT/-

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

