

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23658 of 2018

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Gunwant Ram @ Jamwant Ram S/o Late Sohar Ram R/o Village-
Dharmangatpur, Panchayat Kumharia, P.S Suryapura, Dist-Rohtas Sasaram.

... .. Petitioner/s

Versus

1. The State Of Bihar through Secretary, Food & Consumer Protection Department, Old Secretariate, Patna
2. The Collector, Rohtas, Sasaram.
3. The SDO, Vikramganj, Rohtas.
4. The A.D.M Training, Vikramganj, Rohtas

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vijay Anand
For the Respondent/s : Mr.S. Raza Ahmad- Aag5

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 14-02-2020

1. The present writ petition has been filed for quashing the order dated 04.10.2012, passed by the S.D.O., Vikramganj, Rohtas (Sasaram), whereby and whereunder the learned S.D.O., Vikramganj, Rohtas (Sasaram) has cancelled the P.D.S. licence of the petitioner as also for quashing the order dated 01.04.2018, passed by the Collector, Rohtas (Sasaram), whereby and whereunder the appeal of the petitioner bearing Supply Appeal no. 4 of 2012 has been dismissed.

2. The learned Senior counsel for the petitioner has raised a short point for consideration i.e. to the effect that the show cause notice dated 24.08.2012, issued by the S.D.O.,



Vikramganj, Rohtas (Sasaram) would bear it out that only three days' notice has been given to the petitioner to submit his show cause reply which is arbitrary and amounts to grant of inadequate opportunity to enable the petitioner to submit his defence, hence amounts to non-compliance of the Principles of Natural Justice. In this regard, the learned Senior counsel for the petitioner has referred to a judgment reported in **2013(1) PLJR 718 (Smt. Fulpati Devi v. the State of Bihar and others)**, paragraphs no. 3 to 5 whereof, are reproduced hereinbelow :-

“ 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 taken 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.

5. In the circumstances, appellate order of the Collector dated 5.5.2012 (Annexure-1) and the original order of the Sub-Divisional Officer contained in Memo No. 758 dated 22.11.2011 (Annexure-2) are quashed and the matter is remitted back to the Sub-Divisional Officer, Arwal to consider the representation of the petitioner, allow her to file further representation and thereafter, pass appropriate order afresh in accordance with law.”

3. The learned counsel for the State has not denied the fact that only three days' notice was given to the petitioner to submit his reply to the show cause notice dated 29.08.2012.

4. Having regard to the facts and circumstances of the case, considering the submissions made by the learned Senior counsel as also taking into account the law laid down by a co-ordinate Bench of this Court in the case of **Smt. Fulpati Devi (supra)**, I deem it fit and appropriate to allow the present writ



petition. Accordingly, the order dated 04.10.2012, passed by the S.D.O., Vikramganj, Rohtas (Sasaram) as also the order dated 01.04.2018, passed by the Collector, Rohtas (Sasaram) are hereby quashed.

It is needless to state that S.D.O., Vikramganj, Rohtas (Sasaram) would be at liberty to proceed afresh in the case after giving adequate opportunity to the petitioner herein.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	25.02.2020
Transmission Date	NA

