

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL WRIT JURISDICTION CASE NO. 351 of 2021

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Sachendra Prasad Singh, son of Ramprasad Singh, resident of
Daudpur, Police Station Paroo, District Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Old Secretariat, Govt. of Bihar, Patna.
2. The Secretary, Food and Consumer Protection Department, Old Secretariat, Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The Sub-Divisional Magistrate (West), Muzaffarpur
5. The District Supply Officer, Muzaffarpur.
6. The Block Supply Officer, Paru, Muzaffarpur.

... .. Respondent/s

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Appearance:

For the Petitioner/s : Mr. Sanjeet Kumar, Adv.

For the Respondent/s: Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 17-09-2021 The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

The  etition has been filed seeking

quashing of the order dated 31.08.2020, passed by the learned Sub-Divisional Officer (West) Muzaffarpur, whereby and where under the PDS license of the petitioner bearing license No. 23030031/16 has been cancelled.

The learned counsel for the petitioner has raised a short issue for consideration i.e. the show cause notice was issued on 23.8.2020 and only two days' time was granted to the petitioner to submit his reply to the show cause, which, in any view of the matter, is insufficient and amounts to denial of proper opportunity to the petitioner to defend himself, hence has resulted in violation of the principles of nature justice. The learned counsel for the petitioner has relied upon a judgment reported in 2013 (2) PLJR 706 (Smt. Fulpati Devi vs. The State of Bihar & Ors.).

Per contra, the learned counsel for the respondent State, Shri Upendra Pratap Singh, AC to SC-4 has not disputed the position as is existing in law.

I have heard the learned counsel for the parties and gone through the materials available on record from which it is apparent that only two days' time was granted to the petitioner to file his reply to the show cause notice, which, in opinion of this Court, is absolutely insufficient and amounts to denial of proper opportunity to the petitioner to defend himself. t of the matter is squarely



covered by the judgment rendered in the case of Smt. Fulpati Devi (supra). Therefore, this Court finds that insufficient opportunity was granted to the petitioner, resulting in violation of the principles of natural justice, thus the impugned order dated 31.08.2020 stands vitiated in the eyes of law, which in any view of the matter has been passed without considering the reply of the petitioner, which is stated to have been filed on 2.9.2020. Consequently, this Court finds that the impugned order dated 31.08.2021 is bad in the eyes of law, hence is quashed, however, liberty is granted to the Sub-Divisional Officer, West Muzaffarpur, to pass a reasoned and a speaking order, afresh, within a period of eight weeks from the date of receipt/ production of a copy of this order, after considering the reply of the petitioner, which is stated to have been filed on 02.09.2020 as also after granting an opportunity of hearing to the petitioner.

It is needless to state that in case the petitioner fails to appear before the Sub-Divisional Officer, West Muzaffarpur, on the date to be so fixed for grant of an opportunity of hearing to the petitioner, the Sub-Divisional Officer shall be free to pass appropriate ex-parte orders in accordance with law.

The _____ ands allowed to the aforesaid



extent.

(Mohit Kumar Shah, J)

Tiwary/-

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