

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8007 of 2020

Nathuni Mehtar son of Sri Yogeshwar Mehtar resident of Ward No. 11,
Village- Barharwa Hasanpur, P.O.- Hasanpur Barharwa, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
3. The District Officer-cum- Magistrate, Sitamarhi.
4. The Sub- Divisional Officer, Pupri, District- Sitamarhi.
5. The Block Supply Officer, Bajpatti, District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Amrit Abhijat, Advocate
For the State : Mr. U.P. Singh, AC to SC 4

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 16-03-2021

Heard learned counsel for the petitioner as well as learned counsel for the respondents. Learned counsel for the petitioner has filed an undertaking to remove all the defects pointed out by the Stamp Reporter as and when required. It is accordingly directed that all defects pointed out by the Stamp Reporter be removed within one month hereof.

2. The following reliefs as formulated by the petitioner have been claimed in the writ petition--

“i) To issue a writ in the nature of certiorari, setting aside the order dated 14.05.2020 passed in Case No.05/2020 contained in Memo No.271 issued by the Sub-Divisional Officer, Pupri, District-Sitamarhi, whereby



and whereunder he was pleased to cancel the P.D.S. dealership licence, bearing Licence No.08/2003 of the petitioner, exercising authority under paragraph no.25(1)(Ka)(Kha)(Ga) and (Gha) of Bihar Targeted Public Distribution System (Control) Order, 2016.

B) To issue a writ in the nature of mandamus commanding and directing the Respondents to restore the PDS dealership license of the petitioner bearing license No.08/2003 w.e.f. 14.05.2020.

C) Any/or any other relief or reliefs for which the petitioner is found entitled to, in the facts and circumstances of this case.”

3. Learned counsel for the petitioner submits that insufficient opportunity of only 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, however, he filed the same on 13.05.2020. 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 order contained in Memo No. 271 dated 14.05.2020 passed by the Sub Divisional Officer, Pupri, District Sitamarhi (Annexure-4) is hereby



set aside and the matter is remanded to the Sub-Divisional Officer Pupri, District Sitamarhi (respondent no. 4) to issue an appropriate show cause notice and 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. 4.

5. The writ petition stands allowed as above.

6. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	18.03.2021
Transmission Date	-

