

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3111 of 2015

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Md. Shafi Alam, Son of late Abdul Rashid, Resident of Mohalla-Khajekalan Ghat P.S. Khajekalan, Patna City, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar , through the Collector, Patna.
2. Director, Agriculture, Government of Bihar-cum- Director, Bihar Agriculture Produce Marketing Board, Government of Bihar, Patna.
3. The Sub Divisional Officer, Patna City-cum- Special Officer, Agriculture Produce Market Committee (Dissolved), Musallahpur, Patna.
4. Md. Aslam, Son of late Sarfuddin, resident of mohalla- Khejekalan, Police Station- Khajekalan, Patna City, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Upendra Prasad
Mrs. Veena Kumari Jaiswal
For Respondent State : Mr. Ravindra Kumar, A.C. to AAG-6
For Respondent No.4 : Mr. Chandra Shekhar Singh

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

5 06-09-2016 Heard learned counsel for the petitioner and learned
counsels for the State and respondent No.4.

The petitioner seeks quashing of the order dated 29.09.2014 passed by the Sub-divisional Officer, Patna City-cum-Special Officer, Agriculture Produce Market Committee (Dissolved), Musallahpur, Patna, by which Key of Shop No. 61 at Market Yard, Musallahpur, Patna, which was sealed by the respondent No.3, has been directed to be handed over to respondent No.4.

This Court does not wish to enter into the dispute, which raises several questions of facts and the same are required to be



examined at the level of respondent No.3. It does not appear that there has been any proper enquiry done before the impugned action was taken. The licence is in the name of M/s. Aslam Shafi Alam and all documents as brought on the record show the signatures of respondent No.4 and the name of father of respondent No.4 is also mentioned, whereas the name of the firm was previously M/s. Aslam Shafi Alam and thereafter the name of the petitioner was also incorporated in the said firm. Although the stand of learned counsel for respondent No.3 and learned counsel for private respondent No.4 is that the licence was issued to the said firm as proprietorship of respondent No.4 but before such an action of ouster/alleged ouster, the petitioner ought to have been given an opportunity of being heard and produced the document in respect of the firm in question and only after examining the petitioner and respondent No.4 as also any relevant documents/witnesses that could have been produced, the final decision ought to have been taken by respondent No.3, Sub-divisional Officer, Patna City. The same has not been done in the present matter.

The writ application is, accordingly, disposed of with a direction to the respondent No.3, Sub-divisional Officer, Patna City-cum-Special Officer, Agriculture Produce Market Committee

(Dissolved), Musallahpur, Patna to decide the matter after giving an opportunity of hearing to both the petitioner and respondent No.4.

Let both the petitioner and respondent No.4 present themselves before the respondent No.3, Sub-divisional Officer, Patna City-cum-Special Officer, Agriculture Produce Market Committee (Dissolved), Musallahpur, Patna on 26th September, 2016 at 11 A.M. along with a copy of this Order. The respondent No.3, thereafter, shall consider and dispose of the matter in accordance with law within a period of two months.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

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