

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17054 of 2011

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Suryadeo Tiwary son of Late Gupteshwar Tiwary, resident of village + P.O. Jamuhar, Police Station Dehri, District- Rohtas at Sasaram

.... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Commerce and Industry, New Delhi
2. The Chief Controller of Explosive, Petroleum and Explosives Safety Organization, P.E.S.O. (Formerly Department of Explosive), 5th Floor, A-Block, C.G.O. Complex, Seminary Hills, Nagpur (M.S.) Pin-440006
3. The Joint Chief Controller of Explosives, East Circle, 8, Explanada, East Kolkatta
4. The District Magistrate, Rohtas at Sasaram
5. The S.D.M. Sadar, Sasaram

.... Respondents

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Appearance :

For the Petitioner : Mr. S.M. Shabbir Alam,

Mr. Sanjay Sinha, Advocates

For the State : Mr. G.K. Agrwal GA10

For Respondent No.3: Mr. Sanjay Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-03-2016

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for quashing the order dated 25.04.2011 contained in Letter No. 705 of the Office of the District Magistrate, Rohtas at Sasaram by which the District Magistrate has revoked the no objection certificate granted to the petitioner for carrying on business of sale of higher explosive substances.

3. Learned counsel for the petitioner makes a short



submission to question the legality of the impugned order dated 25.04.2011, to the effect that the same has been passed in violation of Rule 115 of the Explosive Substances Rules 2008 which mandates the grant of a reasonable opportunity of being heard prior to cancellation of the no objection certificate. A categorical stand has been taken in paragraph 9 of the writ petition that no such prior opportunity of hearing was granted to the petitioner. It is further submitted that even otherwise, the impugned order cannot be sustained as it is a non-speaking order without disclosing the manner in which the Rules were not being complied, as has been alleged against the petitioner.

4. Learned counsel for the respondents opposes the writ petition with reference to the counter affidavit but is, however, unable to controvert the petitioner's stand with regard to violation of the principles of natural justice in not granting an opportunity of being heard prior to cancellation of no objection certificate.

5. Having regard to the stand of the parties, this Court finds merit in the writ petition. A categorical objection has been taken by the petitioner with reference to Rule 115 of the Explosive Substances Rules, 2008 with regard to non-grant of prior opportunity of being heard which remains uncontroverted. The decision making process clearly stands vitiated and thus, the impugned order dated

25.04.2011 passed by the District Magistrate, Rohtas (Annexure-1) becomes unsustainable in law.

6. Accordingly, the impugned order dated 25.04.2011 (Annexure-1) is hereby set aside with a direction to the District Magistrate, Rohtas at Sasaram to pass orders afresh after observing the requirements of Rule 115 of the Explosive Substances Rules, 2008. The writ petition stands allowed. It is made clear that this Court is not expressing any opinion on the merits of the claim of the petitioner.

B.T/-

(Vikash Jain, J)

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