

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3719 of 2012

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1. Kishore Das S/O Late Anp Das Resident Of Village Dumri Khurd, P.S.
Majorganj, Distt. Sitamarhi

.... Petitioner/s

Versus

1. The State Of Bihar
2. District Magistrate, Sitamarhi
3. S.D.O., Sitamarhi
4. Anchal Adhikari, Majorganj, Distt. Sitamarhi
5. Manjoor Alam S/O Late Sadique Mian Resident Of Village Dumri Khurd, P.S.
Majorganj, Distt. Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. BINOD KUMAR

For the Respondent/s : Mr. J.S. ARORA SC6

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 29-04-2016

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

2. The present writ petition has been filed against
the entire action of the respondents authorities and for quashing of
letter No. 75 dated 06.02.2012 (annexure-7) issued by the Circle
Officer, Majorganj by which the petitioner has been communicated
the order of the Sub-divisional Officer, Sitamarhi Sadar to keep his
Atta chakki machine closed with immediate effect.

3. Learned counsel for the petitioner makes a short
submission to the effect that the authorities have acted arbitrarily and
illegally in directing closure of the petitioner's Atta chakki (flour



mill). It is submitted that the authorities could not have deprived the petitioner of his livelihood merely on the basis of signature obtained on a blank piece of paper obtained from the petitioner on the pretext of settling the dispute but, subsequently converted into an agreement of compromise between the petitioner and the respondent no. 5.

4. Having heard the parties, this Court finds merit in the writ petition. It is not in dispute that the impugned letter dated 06.02.2012 (Annexure-7) has been passed on the basis of a compromise alleged to have been entered into between the petitioner and private respondent no. 5.

5. This Court, however, is of the view that freedom to carry on trade is a fundamental right of the petitioner and his right to livelihood could not have been taken away without initiating a valid proceeding according to law. Learned counsel for the State has not been able to show the details of any proceeding initiated on the basis of the complaint of the private respondent before passing adverse order against the petitioner which had serious consequences and affects his very right to livelihood.

6. Considering that the impugned letter has been issued in absence of any valid proceeding, no right can be said to have accrued to the private respondent no. 5 and, hence, no notice to respondent no. 5 is required to be issued before disposing of the writ

petition.

7. In the facts and circumstances of the case and in the interest of justice, impugned letter no. 75 dated 06.02.2012 (annexure-7) is hereby set aside with liberty to the respondents to initiate any appropriate proceeding against the petitioner on the basis of the complaint of respondent no. 5 in accordance with law.

8. The writ application is, accordingly, allowed.

(Vikash Jain, J)

Amin/-

AFR/NAFR	NAFR
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