

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.851 of 2016

Along with

Interlocutory Application No. 1802 of 2016

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Rajiv Kumar, son of Shri Moti Lal, resident of Purani Bazar, Ward No.9,
Narkatiaganj, P.O. Narkatiaganj, P.S. Shikarpur, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Food & Consumer Protection, Government of Bihar, Patna.
2. The Bihar State Food & Civil Supplies Corporation Limited, Sone Bhawan, 5th Floor, Birchand Patel Marg, Patna through its Managing Director.
3. The District Manager, Bihar State Food & Civil Supplies Corporation Limited, West Champaran, Bettiah.
4. The Senior Deputy Collector-cum-District Certificate Officer, West Champaran, Bettiah

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Suraj Samdarshi, Advocate

For the State : Mr. Pandey S. Sahay, SC-31

For the BSFC : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 03-03-2016

Heard learned counsel for the parties.

Re. Interlocutory Application No. 1802 of 2016

Though the Interlocutory Application has been filed for

stay of further proceeding of Certificate Case No. 17 of 2014-15 pending before the respondent no. 4 as an interim arrangement but in view of the writ petition being finally disposed off, no separate order is required to be passed on the Interlocutory Application.

Accordingly, Interlocutory Application No. 1802 of 2016 stands disposed off.

Re.: Civil Writ Jurisdiction Case No. 851 of 2016

Learned counsel for the petitioner submits that the petitioner was not heard before the order dated 17.12.2015 was passed which would be apparent from the ordersheet itself where it is nowhere mentioned that the parties were heard, though the petitioner was represented before the Certificate Officer. Learned counsel submits that in view of the aforesaid, one opportunity may be given to the petitioner to present his case before the Certificate Officer and he may pass fresh order.

Learned counsel for the respondents submit that the petitioner was heard and the plea of the order being passed without such hearing is not tenable in view of the fact that the order dated 27.11.2015 clearly indicates that written argument submitted on behalf of the petitioner was also handed over to the learned counsel for the other side. They submit that in view of the aforesaid, the presumption would be that the petitioner was heard, for the reason that the written statements are submitted on conclusion of arguments and not prior to that. The petitioner making no objection with regard

to submission of the written argument is thus indicative of the fact that he was heard and at least it would be deemed that he was heard. They also raise a preliminary objection inasmuch as there being an alternate statutory remedy of appeal and further revision under the Public Demands Recovery Act.

Learned counsel for the petitioner, by way of reply, submits that the submission of written argument would not suffice the requirement of opportunity of hearing to the petitioner.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to appreciate the contentions of learned counsel for the petitioner that he was not heard before the impugned order was passed, moreso when, as submitted on behalf of the respondents, the order dated 27.11.2015 clearly notes that written argument was submitted on behalf of the petitioner, which fact has not been denied. Further, there being an alternate statutory remedy, the Court finds no occasion to interfere in the matter.

Accordingly, the writ petition stands disposed off with liberty to the petitioner to move before the Appellate forum in accordance with law.

(Ahsanuddin Amanullah, J)

Anjani/-

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