

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7263 of 2017

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Madan Ram, Son of Sri Chandradeep Ram, resident of Village Pratappur, P.S.-
Sandesh, District- Bhojpur.

.... Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate Bhojpur, Ara.
3. The Sub Divisional Officer, Sadar Ara, Bhojpur.
4. The District Supply Officer, Bhojpur, Ara.
5. The Block Development Officer, Block- Sandesh, District- Bhojpur.
6. The Block Supply Officer, Block- Sandesh, District- Bhojpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra

For the Respondent/s : Mr. Vikas Ratan Bharti, A.C. to G.P.-9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 25-07-2017

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

2. In the present case, startling fact has been brought to the notice of the Court that the Sub Divisional Officer, who is the licensing authority, has also acted as an appellate authority, which is not permissible in law as it is well known principle that a person cannot be a Judge of his own order.

3. The P.D.S. licence of the petitioner has been cancelled vide order dated 10.06.2014 passed by the Sub-Divisional Officer,



Sadar Ara, Bhojpur. As the appellate authority was sitting tight over the matter the petitioner was compelled to approach this Court in C.W.J.C. No.19830 of 2016 and this Court directed District Magistrate, Bhojpur, Ara, who is the appellate authority, to dispose of the appeal in accordance with law on its merit within a period of two months from the date of receipt/production of a copy of the order.

4. The District Magistrate, in turn, transferred the case to the Sub-Divisional Officer, which he could not have entertained under the Essential Commodities Act, as the District Magistrate is the appellate authority, he cannot abdicate his power as an appellate authority. It is the District Magistrate, who has to decide the appeal not the Officer who is below him. At the same time, the Sub-Divisional Officer, should have returned the file to the District Magistrate. But, instead of returning the file, he has passed the order, which amounts to usurping the power of the appellate authority. How the Sub-Divisional Officer can justify his own order. This Court does not find any reason to affirm the action which has been taken by the authority.

5. In such view of the matter, the order dated 20.04.2017 passed by the Sub-Divisional Officer, Sadar Ara, Bhojpur, is set



aside. The matter is remanded back to the District Magistrate, Bhojpur, Ara, to pass fresh order on merit within a period of four weeks from the date of receipt/production of a copy of this order. It is made clear that the District Magistrate will not transfer this file or any other file which has been filed before him as an appeal under the Essential Commodities Act to any junior officer for its disposal.

6. Accordingly, this writ application is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	31.07.2017
Transmission Date	N/A

