

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8468 of 2017

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Deepu Kumar @ Deepak, son of Sheo Shankar Prasad, resident of Village- Obra,
P.S. Obra, District- Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner,
Department of Excise, Govt. of Bihar, Patna
2. The Excise Commissioner, Bihar, Patna
3. District Magistrate-cum-Collector, Aurangabad
4. Superintendent of Police, Aurangabad
5. Superintendent of Excise, Aurangabad
6. Dy. S.P. Daudnagar, Aurangabad
7. Officer Incharge Obra Police Station, District- Aurangabad
8. Gopal Prasad, son of Late Sheo Shankar Prasad, resident of Bari Co-operative-
574, Sector 12, Bokaro Steel City, Jharkhand.
9. Shyam Prasad, son of Late Sheo Shankar Prasad, resident of 64-Sulabhpuram,
Sikandara Bodla Road, Near Kargil Patrol Pump, P.S. Sikandara, Town &
District Agra (U.P.)
10. Anil Kumar, son of Late Sheo Shankar Prasad, resident of Abhinav Pustak
Bhandar, Mazar Road, Obra, P.S. Obra, District- Aurangabad, Bihar
11. Brajesh Kumar, son of Late Sheo Shankar Prasad, resident of Air Force Station,
Lohegaon, Quarter No. 284G New Project Area, Pune, Maharashtra

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Uday Singh, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 21-06-2017



Having heard learned counsel for the parties, we find that a statutory appeal filed by the petitioner under Section 92(2) of the Bihar Prohibition and Excise Act, 1916 has been rejected on 08.06.2017 by the learned Appellate Authority, by recording the following order:-

“Heard both the parties, the appeal has no merit, therefore, it is dismissed.”

2. In our considered view when various grounds are raised in the appeal and the appeal is a statutory appeal, the Appellate Authority under law is duty bound to decide the appeal by a speaking order, showing application of mind and advertent to decide each and every issue canvassed in the appeal. In this case the appeal has been decided without following the aforesaid statutory requirement and law and, therefore, on this ground alone, the writ petition has to be allowed, the order of the Appellate Authority quashed and the matter remanded back to the Appellate Authority for deciding the appeal afresh in accordance with law.

3. Accordingly, we quash the order dated 08.06.2017 passed by the Appellate Authority and remand the matter back to the Appellate Authority for deciding the appeal afresh in accordance with law by a speaking order. Till the appeal is not decided by the Appellate Authority, further steps for auctioning of the property in



question shall be kept in abeyance.

4. The writ petition stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	24.06.2017
Transmission Date	

