

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7917 of 2017

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1. Kedar Nath Singh Son of Sri Lal Bahadur Singh resident of Bankat, P.S. Garhni,
District - Bhojpur.

.... Petitioner/s

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 - Agiaon, District - Bhojpur.
6. The Block Supply Officer, Block - Agiaon, District - Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra,
Mr. Priya

For the State : Mr. Lalan Kumar,, AC- GP9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 12-07-2017

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

In the present writ petition, petitioner is challenging the
order dated 9.3.2016 passed by the Sub Divisional Officer, Sadar,
Ara by which his licence has been cancelled.

It is a peculiar case in which licensing authority i.e. Sub
Divisional Officer, Sadar, Ara has heard the appeal against his
own order whereas the statute provides that District Magistrate is
the appellate authority. It does not stand to reason that the
authority who is not authorized to hear the appeal, would entertain



the appeal and pass order. It is completely unknown to law unconceivable procedure has been adopted in the present case. It is well known principle of law that a person cannot be judge of his own cause.

A proceeding was initiated on the basis of the report of the Assistant Supply Officer dated 7.8.2015 for that a show cause was issued, which was replied by the petitioner and after that the Sub Divisional Officer, licensing authority vide order dated 19.3.2016 rejected the explanation and cancelled the licence.

Against that order petitioner has filed an appeal as provided under the Essential Commodities Act. The said appeal was heard by the same authority who has passed the order, which was/is under challenge before this Court.

Learned counsel for the State has shown inability to defend the present adopted procedure. It is a right stand of the State if the authority acts in such a manner, it is very difficult for any counsel to defend his action.

In such view of the matter, the order dated 20.4.2017 is set aside and this Court directs the Collector, Bhojpur to hear the case and decide the same in accordance with law. As has been informed by the petitioner that the three man committee report which is the basis for initiation of proceeding having not been



served. This aspect too is required to be taken into consideration by the appellate authority.

Let this order be communication to the Principal Secretary, State of Bihar, he should issue instruction, in future, the authority i.e. the licensing authority should not hear the appeal as the power of appeal, provided in the statute, has been conferred to the Collector of District.

With the aforesaid observation this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
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