

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10434 of 2017

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Kapildeo Baitha Son of Late Shividhari Baitha, Resident of Village- Mahuaiyan,
P.S.- Bajpatti, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Food & Civil Supplies, Government of Bihar, Patna.
3. The District Officer-cum- 2nd Appellate Authority, Sitamarhi.
4. The Sub- Divisional Officer, Pupri, District- Sitamarhi.
5. The Block Development Officer, Bajpatti, District- Sitamarhi.
6. The Block Supply Officer, Bajpatti, District- Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amrit Abhijat, Adv.
Mr. Manoj Kumar Gupta, Adv.
For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 12-10-2017

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order dated 21.4.2017 passed by the Sub-Divisional, whereby and whereunder, the license of the petitioner has been cancelled.

In the present case, a proceeding was initiated on the report of the B.D.O. cum Block Supply Officer, Bajpatti, the petitioner was asked to file explanation whatever he has to explain and the matter was under consideration before the District Magistrate,



Sitamarhi which was heard on 20.4.2017. A direction from the District Magistrate was received by the S.D.O., Pupri (Sitamarhi) before next date of hearing i.e. 27/4/2017 and, in pursuance thereof, the S.D.O., Pupri (Sitamarhi) on the basis of direction of the District Magistrate, Sitamarhi as well as report of the Block Development Officer, cancelled the license of the petitioner.

Learned counsel for the petitioner submits that as the S.D.O., Pupri (Sitamarhi) is the licensing authority ought to have acted independently as the order itself reflects that he was under the influence of the direction of the District Magistrate as well as report of the District Supply Officer cum Block Development Officer. He has not even cared to discuss the case on merit and take a decision in accordance with law rather cancelled the license of the petitioner as if he has obeyed the order of the District Magistrate who is the appellate authority.

This Court is of the opinion that the action which has been taken by the S.D.O., Pupri (Sitamarhi) is per se illegal, when he has been assigned a job for deciding the case, it was his duty that he should maintain neutrality and he should not have been swayed away by the direction of any authority whosoever.

In that view of the matter, the order dated 21.4.2017 is set aside and the matter is remitted back to the S.D.O., Pupri,



Sitamarhi who will pass a reasoned order on merit after giving an opportunity of hearing to the petitioner.

This application is, accordingly, allowed to the
aforementioned extent.

Rishi/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.10.2017
Transmission Date	NA

