

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1729 of 2016

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Jai Prakash Gupta, Son of Laxmi Sah, Resident of village-Dhobwal, P.S. Vijayipur,
District - Gopalganj, Bihar

.... Petitioner

Versus

1. The State of Bihar through Secretary Department of Food and Civil Supplies,
Bihar, Patna
2. The District Magistrate, Gopalganj, District Gopalganj
3. The Sub - Divisional Officer, Hathuwa, District - Gopalganj
4. The Block Supply, Vijayipur, District Gopalganj

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Mrigank Mauli, Adv.
Mr. Prince Kumar Mishra, Adv.
For the Respondent/s : Mr. Kaushal Kumar Jha, A.A.G.-8

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-04-2017

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

2. In this case, the petitioner is challenging the order dated 25.08.2014, passed by the Sub-Divisional Officer, Hathuwa, District-Gopalganj, whereby and whereunder he has cancelled the licence of the petitioner.

3. The petitioner is running a P.D.S. shop under the licence No.27 of 2007. The District Magistrate, Gopalganj has directed the Sub-Divisional Officer, Hathuwa to constitute a team



and make inspection of different P.D.S. shops. During the inspection, the shop of the petitioner was also inspected and found involved in dereliction of running the shop, led to initiation of proceeding. The petitioner was given notice and he has also filed the show cause. After consideration of the materials, the Sub-Divisional Officer has arrived to a finding that the materials are sufficient to indicate that the petitioner was involved in wrong activity in running of the P.D.S. shop.

4. Learned counsel for the petitioner submits that as the team was constituted at the behest of the District Magistrate, Gopalganj there is every likelihood that the District Magistrate would like to uphold the order of the Sub-Divisional Officer. However, from the record it does not appear that the District Magistrate has constituted the team for the purposes of holding inquiry with respect to the petitioner's shop only, but the order was issued by way of administrative capacity for constitution of a team and making inspection of different P.D.S. shops. As the petitioner is running the P.D.S. shop that led to inspection of his shop also and submission of report.

5. In such circumstance, it cannot be said that the District Magistrate, Gopalganj will be influenced by the inspection report



submitted by the inspecting team inasmuch as by the order of the Sub-Divisional Officer. The District Magistrate, is an appellate authority, he supposed to discharge the duty as an independent arbitrator and will examine the facts and records and arrive to his own finding without being influenced by the order passed by this Court *vice versa* the order passed by the Sub-Divisional Officer. While considering the limitation petition, the District Magistrate will consider the pendency of this writ application before this Court.

6. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
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