

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14394 of 2016

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Umakant Prasad, son of Sh. Chandrika Prasad, Resident of Village - Mathani,
Tanki Bazar, Post - Bhaisalton, Police Station - Balmikinagar, District - West
Champaran

.... Petitioner

Versus

1. The State of Bihar, through principal Secretary, Registration, Excise and
Prohibition Department, Government of Bihar, Patna
2. The Assistant Commissioner, Bihar Patna
3. The Collector, West Champaran, Bettiah.
4. The District Certificate Officer, West Champaran, Bettiah
5. The Superintending of Excise, West Champaran, Bettiah

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Manoj Kumar, Adv.
Mr. Avinash Kumar, Adv.
Mr. Namrata Singh, Adv.

For the Respondent/s : Mr. Anshuman Singh, A.C. to P.A.A.G.-1

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-04-2017

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

2. In this case, the petitioner is challenging the order
dated 26.09.2016 passed by the Certificate Officer in Certificate
Case No.44 of 2015-16, whereby and whereunder he has rejected
the objection filed by the petitioner.

3. The short facts of this case are that during the period



2014-15 the Group No.59 shops were settled with the petitioner with the condition to deposit the licence fee. The Excise Superintendent, vide letter dated 7.04.2015 informed the present petitioner that he has not paid the licence fee for the period 2014-15 and requested to deposit the same and receipt should be placed for his perusal otherwise, the amount standing would be adjusted against the security amount and advance amount.

4. As per the claim of the petitioner, the security amount has already been adjusted against the demand amount and for the rest amount of Rs.20,22,975/- a proceeding under the P.D.R. Act has been initiated. The notices have been issued, whereupon the petitioner has filed his Objection.

5. Learned counsel for the petitioner submits that the Certificate Officer without considering the Objection raised by the petitioner, has rejected the same by a cryptic and perfunctory order. He further submits that in the order-sheet it has only been mentioned that Objection filed by the petitioner is rejected, without detailing of the facts mentioned in the Objection filed by the petitioner. He has further submitted that the Certificate Officer is discharging the *quasi judicial* duty, so the order must reflect that he has applied his judicial mind, will only be reflected when the



authority has discussed the fact, its implication, reasoning and conclusion.

6. Learned counsel for the State submits that the order does not suffer from any illegality inasmuch as there is a provision of appeal, which must be exhausted by the petitioner.

7. The appeal lies against the final order, but it appears that the proceeding is still pending. The petitioner has approached this Court in the intervening period and the Objection which has been dealt with by the petitioner does not satisfy the condition of reasonable consideration and reasonable application of mind. If the order has been passed without any application of mind and that too by a cryptic order, in such circumstance, it will be appropriate for this Court to interfere in the matter.

8. In such view of the matter, the order dated 26.09.2016 is set aside. The matter is remanded back to the Certificate Officer, West Champaran, Bettiah, to consider the Objection of the petitioner afresh and pass a reasoned order after giving proper hearing to the petitioner. The petitioner, if so advised, may file additional objection and that will also be considered by the Certificate Officer.



9. If the petitioner demands certain documents, the respondent authorities will be obliged to supply the same. The respondent authorities are directed not to take any coercive step against the petitioner till the disposal of the objection filed by the petitioner.

10. With the aforesaid observations and directions, this writ application is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	11.04.2017
Transmission Date	N/A.

