

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9073 of 2015

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Raghunath Singh, son of late Ram Janam Singh, Resident of Village- Faijullahpur,
P.S- Baikunthpur, Gopalganj, P.O.- Faijullahpur, District- Gopalganj.

.... Petitioner

Versus

1. The State of Bihar
2. The Collector-cum District Magistrate, Gopalganj.
3. The Additional Collectorm District- Gopalganj.
4. The Sub Divisional Officer, District Gopalganj
5. District Supply Officer District Gopalganj

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Udit Narayan Singh, Adv.
Mr. Ganjendra Kumar Singh, Adv.
For the Respondent/s : Smt. Archana Meenakshee, G.P.-6
Mr. Prabhat Ranja, A.C. to G.P-6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 30-06-2017

Learned counsel for the petitioner is permitted to make
necessary correction in the petition.

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

3. In this case, the petitioner is challenging the order dated
31.07.2014 passed by Sub-Divisional Officer, Gopalganj and the
order dated 21.04.2015 passed by the District Magistrate, Gopalganj.
Both the authorities have passed the order against the petitioner.

4. A raid was conducted in the P.D.S. shop of the



petitioner as well as to the shops of other P.D.S. licence holders. It appears that the allegation against the entire P.D.S. licence holders is same and similar. Altogether 7 charges have been alleged against the petitioner and whereupon he has been asked to file show-cause, which the petitioner has filed and denied the allegation. The Sub-Divisional Officer quoted the allegation and passed the order, thereby cancelled the licence of the petitioner. The appellate authority has concurred with the view of the Sub-Divisional Officer.

5. Plea has been taken by the petitioner that in the village Faijullahpur there are five P.D.S. licence holders, who are distributing the food-grains under the different schemes. On the same day, the shop of the petitioner and one Shivji Ram were raided and thereafter other shops were also raided, in all the shops identical irregularities were found in running the P.D.S. shops and in all the cases, the Sub Divisional Officer has passed the order of cancellation of the licences. Against the said order, the petitioner and others have filed appeals, but the appeal of the petitioner has been rejected, whereas the appeals of other persons were allowed and the matters were remanded back to the Sub Divisional Officer.

6. It has been submitted that allegations against other P.D.S. licence holders are by and large same and similar, the nature



and tenor of the order of the Sub Divisional Officer is also same, but the Collector has rejected the appeal of the petitioner whereas the appeal of others were allowed and matters were remanded back to the Sub Divisional Officer.

7. Learned counsel for the State has tried his best to distinguish the submission of learned counsel for the petitioner and submitted that the case of the petitioner is quite different to the case of others and there is no illegality committed by the Collector in remanding the cases of other persons on the basis of the material on record.

8. Having considered the rival contentions of the parties, the Collector, who is an appellate authority is required to examine the case on fact as well as on law and has to record his independent finding not merely approving the finding of the S.D.O. The Collector has not recorded his own finding and reasoning while passing the order.

9. This Court has also perused the order passed by the Sub Divisional Officer in different cases, by and large the allegations are same, the nature of the order passed by the Sub Divisional Officer with respect to all the cases are same. The Sub Divisional Officer in his order has recorded that an inquiry was conducted on door to door



basis and during inquiry it was found that the allegation made against the petitioner were correct, neither the Sub-Divisional Officer nor the appellate authority has discussed who were the persons from whom information was obtained, merely sweeping statement has been made about inquiry on door to door basis and on that ground alone he has rejected the appeal of the petitioner.

10. In such view of the matter, the order dated 31.07.2014 passed by Sub-Divisional Officer, Gopalganj and the order dated 21.04.2015 passed by the District Magistrate, Gopalganj are set aside. The matter is remanded back to the Sub Divisional Officer, Gopalganj to consider the case of the petitioner, take decision and pass fresh order in accordance with law on the basis of the materials available on record. It is clarified that this Court is not giving any opinion on merit of the case.

11. 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	06.07.2017
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