

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.826 of 2016
In
Civil Writ Jurisdiction Case No. 16945 of 2010**

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Bindeshwar Yadav Son of Shri Mani Yadav, Resident of village - Konand, P.S.
Asthawa, District - Nalanda

.... Appellant

Versus

1. The State of Bihar
2. The Secretary, Food and Civil Supply Department, Govt. of Bihar, Old Secretariat, Patna
3. The District Magistrate, Nalanda
4. The Sub - Divisional officer, Bihar Sharif at Nalanda

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Satyendra Rai
For the Respondent/s : Mr. Pandey Sanjay Sahay, SC 31

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 16-08-2017

This appeal under Clause 10 of the Letters Patent has been filed challenging the order dated 13.04.2015 passed by the learned Writ Court in CWJC No. 16945 of 2010 apart from the fact that there is an inordinate and unexplained delay of 341 days in filing of this appeal.

The challenge in the writ petition was to an order passed by the Sub Divisional Officer, Bihar Sharif, Nalanda, on 16.06.1999 cancelling the license granted to the appellant for establishing a shop under the Public Distribution System. When the shop of the



appellant was inspected it was found that the appellant's shop was closed. No notice was affixed indicating the reason for closure of the shop and, secondly, with respect to various card holders it was found that the ration to them was not being distributed as per the scheme and the food stocks were being diverted for sale in open market.

Based on the show-cause, an enquiry was conducted and the Sub Divisional Officer passed his order dated 16.06.1999. The appeal filed by the petitioner was also dismissed by the appellate authority. The Writ Court did not find any reasonable ground to interfere with the impugned orders as the matter was concluded by concurrent findings of fact.

Now, before this Court, as already indicated hereinabove, apart from the delay of 341 days in preferring the appeal, the order of the Sub Divisional Officer as also the appellate authority by which the matter was concluded by concurrent findings of fact as held by the Writ Court, have been challenged only on the ground that proper enquiry was not conducted. The reason for closure of the shop, i.e., ailment of the appellant, was not properly considered and, therefore, a perverse and arbitrary decision has been taken.

We find from the orders passed by the Sub Divisional Officer and the appellate authority that they have taken note of



various aspects of the matter and we see no reason to make any indulgence now in the present appeal.

The appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl./-

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