

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5864 of 2017

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1. Kailash Manjhi, S/o Late Vidya Manjhi, R/o Village Ratansarai (Malikana),
P.S. + P.O.- Barauli, Dist.- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Food Civil Supply (Consumer
Protection), Deptt. Govt. of Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Sub Divisional Officer, Gopalganj.
4. The District Supply Officer, Gopalganj.
5. The District Supply Officer Baikunthpur, Gopalganj.
6. Ramesh Kumar, S/o Late Saalik Singh, R/o Vill.- Ratansarai, Ward No. 14,
P.O. + P.S.- Barauli, Dist.- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gautam Kumar Yadav

For the State : Mr. Upendra Pratap Singh, AC to SC 4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 03-07-2017

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

In the present writ petition, petitioner is challenging the
order dated 2.9.2016 passed in Supply Appeal No.15 of 2016 by
the District Magistrate, Gopalganj whereby and whereunder he
has set aside the order dated 30.4.2016 passed by the Sub
Divisional Officer, Gopalganj by which Licence No.17 of 2007
of the petitioner has been revived on remand order passed in
Supply Appeal No.19 of 2013 by the District Magistrate,
Gopalganj had set side the order dated 8.10.2013 passed by the
Sub Divisional Officer, Gopalganj.



Learned counsel for the petitioner submits that the order of the District Magistrate is completely not sustainable on account of fact, that without considering merit of the case, mere on technical ground remanded the case whereas, the District Magistrate as appellate Court, should have decided the case on merit confined his finding that Ramesh Singh (complainant) was not having been heard.

A proceeding was initiated at the instance of Ramesh Singh for some dereliction of supply of grain which led to cancellation of the licence whereafter the appellate authority remanded back the matter to the Sub Divisional Officer for fresh consideration and the Sub Divisional officer on the basis of the report of the Block Development Officer-cum- Supply Officer and Panchayat Supervisor wherein they have not recorded any finding against the petitioner rather gave a finding in his favour on that basis Sub Divisional Officer restored the licence of the petitioner. The same was challenged by Ramesh Singh, the appellate authority has recorded a finding that Sub Divisional Officer did not followed the proper procedure as complainant was not heard and passed the order in favour of the present petitioner. He further submits that it is completely an error apparent on record.

Learned counsel for the State has disputed the argument of learned counsel for the petitioner and submitted that in fact the



Sub Divisional Officer had not given the chance of hearing to Ramesh Singh. Merely he has recorded a finding on the basis of the material available on record.

Having considered the rival contentions of the parties the Sub Divisional Officer while passing the order has recorded about enquiry report of the Block Supply Officer and Panchayat Sueprvisor but the order does not reflect about service of enquiry report and hearing to Ramesh Singh was not given thereby fair opportunity of proper hearing was given. The appellate authority rightly has only interfered in the matter without touching the merit of the case only on the ground that Ramesh Singh was not given opportunity of hearing..

This Court does not find any error in the order of the appellate authority. However, the Sub Divisional Officer without being influenced by the order of the Collector would pass the order after giving opportunity of hearing to all the parties and take a fresh decision in accordance with law.

Accordingly this writ petition is disposed of.

Vinay/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.7.2017
Transmission Date	NA

