

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10875 of 2017

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Ashok Kumar Singh, Son of Late Rampukar Singh, resident of Village-Nawada Ben, Police Station-Udawant Nagar, District-Bhojpur.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department, of Food and Consumers Protection, Government of Bihar, Patna.
2. The District Magistrate, Bhojpur
3. The Sub-Divisional Officer, Arah Sadar, District-Bhojpur
4. The District Supply Officer, Bhopur.
5. The Block Supply Officer, Udawant Nagar, Dist. Bhojpur.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Binay Kumar, Adv.

For the Respondent/s : Mr. Upendra Pratap Singh, A.C. to S.C.-4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 20-09-2017

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

On the face of the record, it appears that the District Magistrate as well as the Sub Divisional Officer has committed illegality in disposing of the appeal of the petitioner. The Sub-Divisional Officer is the Trial Court with respect to the essential commodities matter and the District Magistrate is the Appellate Authority. When a person feels aggrieved by the order of the Sub Divisional Officer, he challenges the order before the District Magistrate and it is the District Magistrate, who has to apply his mind and pass order, he cannot abdicate his power and refer the



matter to the subordinate Officer to pass the order.

The District Magistrate is an Appellate Authority and it is he who has to pass the order in the present case. The Sub-Divisional Officer, Arah Sadar, vide order dated 10.11.2016, cancelled the P.D.S. licence of the petitioner. Against the aforesaid order the petitioner has filed an appeal before the District Magistrate, Bhojpur at Arah, but the District Magistrate in stead of dealing with the matter referred the matter to the Sub-Divisional Officer, Arah Sadar, who has passed the order even though he has no authority at all in the eye of law, itself shows that they did not care to follow the law.

In such view of the matter, the order dated 20.04.2017 passed by the Sub-Divisional Officer, Arah Sadar is set aside. The matter is remanded back to the District Magistrate, Bhojpur at Arah to pass a fresh reasoned order in accordance with law and not to relegate the matter to any subordinate authority.

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	
Transmission Date	N/A.

