

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Writ Jurisdiction Case No.875 of 2015**

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Arjun Prasad Sah @ Arjun Sah, Son of late Shivji Sah Proprietor M/s Shiv Adarsh  
Misthan Bhandar, Main Road, Madhepura P.O. ,P.S & District Madhepura.

.... .... Petitioner

Versus

1. The State of Bihar through the Commissioner of Food Safety Bihar, Patna
2. Adjudicating Officer -cum- Additional Collector, Madhepura.
3. Designated officer, Kosi Division Saharsa.
4. Food Safety Officer, Kosi Division Saharsa.

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Gyanand Roy, Adv.

For the State: : Mr. Indradeo Prasad, S.C.27.

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**

**ORAL JUDGMENT**

**Date: 08-09-2017**

Heard the learned counsel for the parties.

2. The petitioner has invoked the writ jurisdiction of the Court for quashing the order dated 04.07.2015 passed by the Adjudicating Officer-cum-Additional Collector, Madhepura in Adjudication Case No.01/2015, whereby the petitioner has been held guilty for not complying with the standard provided under Food, Safety and Standard Act, 2006 and has been awarded with a fine of Rs.1,25,000/- under Section 59 of the Food, Safety and Standard Act.

3. The background of the case is that the petitioner is proprietor of M/s Shiv Adarsh Mistan Bhandar at



Madhepura, 'laddu' a food item was seized from the said Shiv Adarsh Mistan Bhandar and the Food Analyst reported that the 'laddu' was containing non-permitted colour. Hence, the same was unsafe for human consumption.

4. Initially, the respondents have raised objection that the appeal is maintainable against the impugned order. However, by filing counter affidavit clarified that the Appellate Authority under the Food, Safety and Standard Act has not been yet established nor by notification any other person has been authorized to act. It appears that only on the basis of notes of the publisher in respect of particular Section of the Act, an appeal is being filed before the Commissioner, which is not a statutory forum.

5. The petitioner has no other remedy, hence the present application has been preferred.

6. The impugned order has been challenged on the ground that Annexure-4 would reveal that the sample was sent for food analysis to Mitra S.K. Private Ltd. Lab, Kolkata, whereas the report relied upon by the Adjudicatory Authority vide Annexure-5 was received from the analyst of Public Health Laboratory, Dhanbad. The respondents have not explained the aforesaid anomaly.



7. In the circumstances, the impugned order suffers from the serious defect of valid food analysis report to substantiate the allegation against the petitioner. As such, it is not sustainable in law.

8. Accordingly, the impugned order is quashed and the writ application stands allowed.

**(Birendra Kumar, J)**

Nitesh/-

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