

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

**Civil Writ Jurisdiction Case No.11626 of 2012**

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Anwar Khan Son Of Late Abdul Jabar Khan Resident Of Village - Sihuli, P.S. -  
Amas, District - Gaya

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate Gaya, District - Gaya
3. The Sub-Divisional Officer, Sherghati, District - Gaya
4. The Block Development Officer, Amas, District - Gaya
5. The Mukhiya, Gram Panchayat Raj Kalwan, P.S. - Amas, District - Gaya
6. The Panchayat Secretary, Gram Panchayat Raj Kalwan, P.S. - Amas, District -  
Gaya

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : None

For the Respondent/s : Mr. Amar Nath Deo, SC26

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**

**ORAL JUDGMENT**

**Date: 10-09-2018**

Despite repeated calls, none appears for the petitioner.

Learned counsel for the State is present.

2. Perused the record and heard learned counsel for the  
State.

3. The instant writ petition has been filed by the petitioner  
for quashing the order dated 31.01.2012 passed by the District  
Magistrate, Gaya in Misc. Case No. 4 of 2012 whereby the District  
Magistrate has remitted the matter to the concerned Gram Panchayat  
for final disposal.

4. The case of the petitioner, in short, is that he was running



a buffalo meat shop under the license issued by ex-Mukhiya. After receiving complaint from the local villagers, the Block Development Officer, Amas sealed the shop and slaughter house of the petitioner. Being aggrieved by the order of the Block Development Officer, the petitioner filed a writ petition before this Court bearing CWJC No.16064 of 2011. After hearing the said writ petition, this Court remitted the matter to the District Magistrate, Gaya vide order dated 06.01.2012 with a direction to dispose of the matter as per provisions of law made in this behalf. In compliance with the said order dated 06.01.2012, the District Magistrate, Gaya remitted the matter to the Mukhiya of the concerned Gram Panchayat vide order dated 31.01.2012 and in compliance with the direction issued by the District Magistrate, the Mukhiya cancelled the license of the petitioner's slaughter house issued by the ex-Mukhiya. Being aggrieved and dissatisfied with the order of the District Magistrate, Gaya whereby he had remitted the matter to Mukhiya of Kalwan Panchayat, the petitioner has filed the present writ petition.

5. A counter affidavit has been filed on behalf of respondent nos.2 to 4 after serving a copy of the same upon the counsel for the petitioner long back. However, no rejoinder to the counter affidavit has been filed.

6. In the counter affidavit, it has been stated that there is no



infirmity and illegality in the order under challenge because the petitioner's buffalo meat shop did not fulfill the criteria as laid down in Rule 2.1.2 of the Food Safety and Standard (Licensing Registration of Food Business Regulation) Regulation, 2011. The buffalo meat shop was located in such an area, which is dangerous for human health and welfare of the consumer. Even the basic sanitary and hygienic conditions were not found present. It is further contended in the counter affidavit that the shop was running under unauthorized license issued by the ex-Mukhiya, who was not the competent authority for issuing such license. The competent authority for issuing license is the Chief Executive Officer of the Food Safety and Standard Authority of India or the designated officer appointed by the Commissioner of the Food Safety of the State of Bihar.

7. Learned counsel for the State submitted that in view of the fact that no reply to the counter affidavit filed on behalf of the respondents has been filed, the statements made in the counter affidavit should be treated as unrebutted. He further contended that the Mukhiya had neither any authority to issue license for opening slaughter house nor any order could have been passed in this regard by her.

8. I find substance in the submission made by the learned counsel for the State. There is no power vested in the Mukhiya to



grant any license for opening a slaughter house. Such power is vested in the Chief Executive Officer of the Food Safety and Standard Authority of India or the designated officer appointed by the Commissioner of the Food Safety.

9. I see no merit in this application. It is dismissed accordingly.

**(Ashwani Kumar Singh, J)**

Pradeep/-

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