

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3556 of 2017

=====

Md. Sawood Alam, S/o Md. Moti @ Motiur Rahman, R/o Mohalla- Salimpur
Sutur Khana, P.S.- Munger (M), District- Munger, Proprietor, M/S R.S.
Enterprises.

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Sheikhpura.
2. Union of India through Chief Controller of Petroleum and Explosives Safety Organization, A. Block, 5th Floor, C.G.O. Complex, Seminary Hills, Nagpur, Maharashtra
3. The Joint Chief Controller of Explosives, East Circle, Calcutta, W.B.
4. The Joint Chief Collector of Explosives, Govt. of Petroleum and Explosives Safety Organization Hazaribagh, Jharkhand.
5. The Divisional Commissioner, Munger.
6. The Sub-Divisional Officer, Sheikhpura.
7. The Superintendent of Police, Sheikhpura.

.... Respondent/s

=====

Appearance :
For the Petitioner/s : Mr. Syed Mohammad Shabbir Alam, Adv
For the Respondent/s : SMT. KUMARI AMRITA-GP3

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-07-2018

The present writ petition has been filed for the following
reliefs –

- (i) *For quashing the order dated 17.12.2016 passed in Explosive Appeal No. 67/2016 by the Divisional Commissioner, Munger; and*
- (ii) *For quashing the order contained in memo no. 184 dated 02.02.2016 issued by the District Magistrate, Sheikhpura, addressed to the Chief Controller of Explosives, Petroleum and Explosives Safety Organization, Nagpur, the*



respondent no. 2, recommending for cancellation of Explosive Licence granted to M/s R.S. Enterprises of the petitioner and even withdrawing the NOC No. 75 dated 16.01.2002 granted to the petitioner on account of pendency of Sheikhpura P.S. Case No. 267 of 2009 instituted on 18.08.2009; and

(iii) For quashing the order contained in letter dated 03.03.2016 issued by the Chief Controller of Explosives, Nagpur; and

(iv) For any other relief or reliefs for which the petitioner is found entitled to.

2. Learned counsel for the petitioner raises a short contention to assail the impugned order of cancellation of the NOC to the effect that even though a detailed reply to the show cause notice was filed by him (Annexure-7 series), the same has not been considered in the impugned order.

3. Learned counsel for the respondent-State appears and has been heard, however, he is unable to controvert the stand of the petitioner.

4. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. A bare reading of the impugned order of cancellation discloses that no consideration of the petitioner's show cause reply has been made. Such non-consideration violates the principles of natural justice and



it is apparent that the impugned order has been passed mechanically and without due application of mind and without grant of proper opportunity of hearing to the petitioner.

5. In the above circumstances, the impugned order dated 02.02.2016 is quashed and the matter remanded to the District Magistrate, Sheikhpura (Respondent No. 1) for passing orders afresh after considering the show cause reply of the petitioner and grant of opportunity of being heard, in accordance with law.

6. Needless to say, the appellate order dated 17.12.2016 (Annexure-10) cannot also be sustained and stands quashed.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.07.2018
Transmission Date	NA

