

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6717 of 2016

=====

Mukesh Kumar Singh S/o Siyaram Singh Resident of vill. - Takesemar, Post -
Salempur, P.S. Muffisil Ara, Distt. - Bhojpur (Ara)

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary Government of Bihar, Old Secretariat, Patna
2. The District Magistrate-cum-Chief Executive Officer, Jila Parishad, Bhojpur, Ara
3. The District Development Commissioner, Bhojpur
4. The Managing Director Sahabad Dugdh Utpadak Sahkari Sangh Limited Katira, Ara
5. The District Engineer Jila Parishad Bhojpur, Ara
6. The Additional Chief Executive Officer Jila Parishad Bhojpur, Ara

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Ojha, Advocate

For the State : Mr. Raghwanand, G.A. XI

Mr. Ranjan, AC to GA-XI

For Zila Parishad : Mr. Nikesh Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-08-2018

This writ petition has been filed by the petitioner for setting aside the order dated 29.03.2016 passed by the Deputy Development Commissioner-cum-Chief Executive Officer, Jila Parishad Bhojpur, Ara whereby and whereunder the petitioner was directed to vacate Sudha Milk Parlour.

2. Learned counsel for the petitioner submitted that the



order passed by the Deputy Development Commissioner is bad in law as well as on facts. The impugned order has been passed without considering the show-cause filed by the petitioner in the most mechanical and cursory manner. The authority concerned did not even give adequate time to the petitioner to rebut charges and, thus, also the impugned order is bad. He has contended that the reason for cancelling Sudha Milk Parlour of the petitioner was that he was not selling Sudha milk and Sudha milk products rather he was doing some different work, but there was no evidence in that regard.

3. On the other hand, learned counsel appearing for respondent no. 5 submitted that the writ petition has become infructuous in view of the fact that the shop in question was already vacated on 01.01.2016. He contended that in the premises of Zila Parishad itself, at the eastern side of the gate, a kiosk was constructed and it was leased out to the petitioner on the condition that he would sell only Sudha products. However, he did not abide by the agreed terms and instead he was doing a different business of running a photostat machine. He was also defaulter in paying rent. He contended that when this fact came to the notice of respondent no. 4, he wrote a letter dated 02.01.2016 to the Deputy Development Commissioner, Ara and complained about the unauthorised business being done by the petitioner. Thereafter, an enquiry report dated 21.03.2016 was submitted under the signature



of the District Engineer to the District Development Commissioner stating therein that in course of inspection, no Sudha milk product could be found and the petitioner was found running a photostat machine and with the help of a computer set he was engaged in getting copy of photostat and online details of land. Anti-social elements were also found assembled at the place. Refuting the submission made on behalf of the petitioner, he submitted that a proper show-cause notice was issued to the petitioner by Zila Parishad and only after receipt of the reply of the petitioner and, on consideration of the same, the impugned order dated 29.03.2016 was passed by the Deputy Development Commissioner and the shop was vacated on 01.04.2016.

4. I have heard learned counsel for the parties and carefully perused the record.

5. The facts that a notice was given to the petitioner regarding breach of the terms of agreement and in course of inquiry it was found that he was doing a different business than that of selling Sudha milk and other Sudha products, which have been stated in the counter affidavit on behalf of respondent no. 4 have been denied by the petitioner in his rejoinder, but it has not been denied that the shop in question has already been vacated on 01.01.2016.

6. Since the petitioner has already vacated the shop in question, no relief can be granted to the petitioner in the present



writ petition, as the same has become infructuous.

7. Accordingly, the writ petition is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.08.2018
Transmission Date	NA

