

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1208 of 2018

In
Civil Writ Jurisdiction Case No.13471 of 2017

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Dayal Sharan Sah Son of Late Kishun Sah @ Raghunandan Sah, Resident of
Village Jalal Basant Block Garkha, P.S. Garkha, District- Saran at Chapra.

... .. Appellant/s

Versus

1. The State of Bihar through Secretary, Civil Supply Department, Bihar, Patna.
2. The District Magistrate, Saran at Chapra.
3. The S.D.O., Sadar Chapra, Saran.
4. The District Supply Officer Saran at Chapra.
5. The Block Supply Officer Garkha, Saran.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Manoj Kumar, Advocate
For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-02-2019

Re : I.A. No. 7594 of 2018

After having heard learned counsel for the appellant, we are satisfied that the sufficient cause has been shown to condone the delay. Delay is accordingly, condoned and the appeal shall be treated to be within time.

Re : L.P.A. No. 1208 of 2018

Heard Sri Manoj Kumar, learned counsel for the appellant and learned counsel for the State of Bihar.

2. The appeal questions the correctness of the impugned judgment of the learned Single Judge dated 11th of July, 2018 that



was delivered in the absence of the learned counsel for the petitioner-appellant but after going through the affidavits on record, the learned Single Judge came to the conclusion that the plea of violation of natural justice was not established and since there was no effective reply in the rejoinder therefore there was no error in the decision making process culminating in the order dated 8th June, 2017 passed by the District Magistrate, Saran at Chapra.

3. Learned counsel for the appellant contends that the learned Single Judge has overlooked the fact that the show cause notice had been given on 4th July, 2016 to which a reply had been given by the appellant on 23rd July, 2016 and the case set up was that there was a total non-consideration of the said reply. It is also urged that sufficient explanation had been given to the show cause notice which has not been considered by the District Magistrate and the entire exercise is an outcome of local village politics and the malicious intention of the local *Mukhiya* as well as other villagers.

4. We have considered the submissions raised and we find that the show cause notice dated 4th July, 2016 was based on a spot inspection made by the Supply Officer on 18th of June, 2016. The said officer submitted a report to the Sub Divisional Officer, Sadar Chapra on 22nd June, 2016 entailing seven deficiencies and



whereafter the show cause notice was issued to the appellant on 4th July, 2016 enclosing therewith the said report received by the Sub Divisional Officer.

5. The appellant gave reply to the same. From the reply we find that the fact that the shop was closed and no documents were available for inspection is admitted for which the explanation given by the appellant is that he had been away to lift the essential commodities for being distributed through him. There is, however, no evidence either documentary or otherwise to substantiate the said explanation. The other allegations from item No. 5 to 7 are with regard to deficiency in the services of not distributing the essential commodities as alleged by named consumers who had informed the Supply Officer that the essential commodities were not being supplied regularly and as a matter of fact, there was some other allegations in shortage of supply as well.

6. The appellant does not appear to have given any specific reply with regard to the allegation that filed at item No. 5, 6 and 7 of the said report and in this view of the matter, the conclusions drawn by the District Magistrate in the order dated 8th June, 2017, in our opinion, does not suffer from any infirmity. The reply being unsatisfactory, the consequential action taken by the



District Magistrate in rejecting the contention of the appellant, therefore, deserves to be affirmed.

7. The appeal, therefore, lacks merits and is accordingly, rejected.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Saif/-

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