

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19756 of 2018

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Samsul Haque Son of Gaffar Miyan, resident of Ward No. 13 Senuawariya
Senuariya, P.S. Kangli, West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Food and Civil Supply,
Government of Bihar, New Secretariat, Patna.
2. The District Magistrate, West Champaran Bettiah.
3. The Sub Divisional Officer, Narkityagang West Champaran Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Mishra, Adv.
For the Respondent/s : Mr.Alok Ranjan AC to AAG 5.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 05-02-2019 Heard learned counsel for the petitioner and learned
AC to AAG-5 for the State.

The petitioner has been praying for issuance of a writ
of certiorari to quash and cancel the order dated 04.09.2018
passed by the Sub-Divisional Officer, Narkatiyaganj, West
Champaran, Bettiah by which the license of the petitioner for
his Public Distribution Shop has been cancelled.

Learned counsel for the petitioner submits that he is
aware of the statutory provision of appeal against the impugned
order but has moved this Court in its writ jurisdiction only
because it is a case of violation of principles of natural justice. It
is submitted that prior to passing of the impugned order no
adequate opportunity was given to the petitioner to defend



himself. Attention of this Court has been drawn towards Annexure '1' to the writ application which is dated 13.07.2018 and in which the petitioner was granted only three days time to file his show cause. It is submitted that on the face of it, the impugned order is liable to be set-aside.

On the other hand, Mr. Alok Ranjan, learned AC to AAG-5 submits that a bare perusal of the impugned order would show that when the petitioner failed to submit his show cause pursuant to the notice dated 13.07.2018 as contained in Annexure '1', a second opportunity was given to him by calling for an explanation vide letter dated 07.08.2018. This fact, though appears in the impugned order has never been controverted by the petitioner in any of the paragraphs of the writ application. Learned counsel submits that it would not be correct to say, in the facts of the present case that only three days time was granted to the petitioner.

Having sensed the difficulties in pursuing this Court, at this stage, learned counsel for the petitioner submits that instead of getting the matter decided here in the writ application he would seek liberty to withdraw this writ application and shall file an appeal before the District Magistrate-cum-Collector, West Champaran, Bettiah within a period of 30 days from today.



Let the writ application be dismissed as withdrawn with the liberty aforesaid.

If such an appeal is preferred within the given period of 30 days from today, the same shall be considered by the District Magistrate-cum-Collector, West Champaran, Bettiah on its own merit which shall be disposed of within the aforesaid period.

(Rajeev Ranjan Prasad, J)

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