

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21613 of 2018

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Amar Kishore Prasad, Son of Nagendra Prasad, Resident of
VillagePanchayat-Mustafapur,Block-Kanti,P.S.-Ahiyapur,Distt.-Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Food & Civil Supply, Govt. of Bihar, Patna.
2. Sub-Divisional Magistrate, West Muzaffarpur
3. Block Supply Officer, Kanti

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shankar Kishore Shahi
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 04-02-2019 Heard learned counsel for the parties and perused the records.

Learned counsel for the petitioner submits that on bare perusal of the impugned order, as contained in Annexure-1 to the writ application, it would appear that the reply of the petitioner to the show cause issued by the Sub-Divisional Officer was not entertained only because few days back one FIR was lodged against the petitioner for his alleged violation of the provisions of Section 7 of the Essential Commodities Act. Learned counsel submits that in course of investigation the allegations made against the petitioner could not be substantiated as a result thereof the investigating officer submitted a final form in the court of learned S.D.J.M. East,



Muzaffarpur. A notice thereafter was issued to the informant calling upon him to raise objection, if any, but no objection was raised against the said final form. By order dated 25.08.2018 the learned S.D.J.M. East, Muzaffarpur has accepted the final form, therefore, in fact the petitioner has been discharged at the investigation stage itself.

Learned counsel further submits that, in view of the subsequent developments, the Sub-Divisional Officer, West Muzaffarpur is obliged to consider the reply of the petitioner submitted against the show cause issued to him and a fresh order will be required to be passed.

Learned counsel for the State is present and, in the given facts and circumstances of the case, learned counsel submits that the Sub-Divisional Officer, West Muzaffarpur may be directed to consider the matter afresh.

Having heard learned counsel for the parties, this Court finds that in the last paragraph of the impugned order, the Sub-Divisional Officer, West Muzaffarpur has recorded that because an FIR has been lodged against the petitioner, his reply to the show cause is liable to be rejected. This Court finds that the show cause of the petitioner was not considered only because the FIR was already lodged against him. Now, in course



of investigation, since no material could be found against the petitioner and final form has been submitted against him, the impugned order, as contained in Annexure-1, is liable to be set aside. It is set aside accordingly with a direction to the Sub-Divisional Officer, West Muzaffarpur to consider the matter afresh from the stage of the submission of the reply to the show cause by the petitioner and take a fresh decision thereon independently.

The writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

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