

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7506 of 2021

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Sheodhari Prasad @ Sheodhari Yadav @ Shivdhari Prasad @ Shivdhari
Yadav Son of Bhagwat Prasad Resident of village- Gopal Kera, P.s.- Fatehpur,
District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Food and Consumer Protection Department, Old
Secretariat, Govt. of Bihar, patna
3. The District Magistrate, Gaya
4. The District Supply Officer, Gaya
5. The Sub Divisional Officer-cum-Licensing Authority, Sadar, Gaya
6. The Block Development Officer, Fatehpur, Gaya
7. The Circle Officer-cum-Incharge, Block Supply Officer, Fatehpur, Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Sharma
For the Respondent/s : Mr.Arvind Ujjwal (Sc4)

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date : 17-02-2022

The present writ petition has been filed for quashing the order dated 04.10.2017 passed by the Sub-Divisional Officer, Sadar Gaya, whereby and where-under the P.D.S. license of the shop of the petitioner bearing license no. 52/07 has been cancelled as also for quashing the order dated 16.07.2019 passed by the District Magistrate, Gaya in Supply Appeal No. 14/19, whereby and where-under the



appeal of the petitioner has been dismissed and the order passed by the Sub-Divisional Officer, Sadar Gaya dated 04.10.2017 has been upheld.

2. The brief facts of the case are that pursuant to an inspection held at the P.D.S. shop of the petitioner on 08.06.2017 at about 11.45 AM, various irregularities were found including non-supply of food-grains to the consumers since the past one year, apart from the shop of the petitioner having been found to be closed and the petitioner being not present there.

3. It appears that an enquiry report was submitted by the Enquiry Officer to the Sub-Divisional Officer, Sadar Gaya on 08.06.2017, where-after an FIR bearing Fatehpur P.S. Case No. 187/17 was lodged against the petitioner on 12.06.2017 under Section 420 of the Indian Penal Code and Section 7 of the EC Act. The petitioner is stated to have been granted anticipatory bail by the Hon'ble Patna High Court vide order dated 05.04.2018 passed in Cr. Misc. No. 9312 of 2018.

4. It is submitted that though a show cause notice was issued to the petitioner on 17.06.2017, however, it is the case of the petitioner that on account of apprehension of arrest in connection with



the aforesaid Fatehpur P.S. Case No. 187 of 2017, he could not file his reply, nonetheless, the Sub-Divisional Officer, Gaya proceeded to pass the impugned order dated 04.10.2017, whereby and where-under the license of the P.D.S. shop of the petitioner has been cancelled. Thereafter, the petitioner had filed an appeal, however, the same has also stood dismissed by an order dated 16.07.2019 passed by the learned District Magistrate, Gaya.

5. The learned counsel for the petitioner has submitted that a bare perusal of the appellate order dated 16.07.2019 would show that firstly, the same is a one sided order in as much as only the submissions of the Special Public Prosecutor, Supply has been considered and as far as the version of the petitioner is concerned, there is no whisper about the same and secondly, the appeal appears to have been rejected merely on the ground of the same having been filed after two years of passing of the order dated 4.10.2017 by the Sub-Divisional Officer, Sadar Gaya.

6. Per contra, the learned counsel for the respondent State has not been able to show from the impugned order dated 16.07.2019 passed by the District Magistrate, Gaya that there is any



consideration of the defense of the petitioner or the grounds raised in the Appeal have been dealt with.

7. Having regard to the facts and circumstances of the case and having considered the materials on record, we are of the considered view that the District Magistrate, Gaya, in his order dated 16.07.2019 has committed a grave error by not considering the stand of the petitioner as also the grounds raised by him in his appeal to assail the order passed by the Sub-Divisional Officer, Gaya dated 04.10.2017 and moreover, there is no whisper about the case of the petitioner apart from the fact that the entire order is one sided and has taken note of only the submissions made by the Special Public Prosecutor, Supply. In such view of the matter, the order dated 16.7.2019, passed by the District Magistrate, Gaya is not only perverse but also unjust and non est in the eyes of law, thus is quashed.

8. We thus deem it fit and proper to remand the matter back to the learned court of District Magistrate, Gaya, who shall grant an opportunity of hearing to the petitioner and then pass a reasoned and a speaking order, in accordance with law, within a period of six weeks from the date of receipt/ production of a copy of



this order.

9. The writ petition stands disposed of on the
aforesaid terms.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.02.2022
Transmission Date	N/A

