

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5256 of 2023

1. M/s Mohammad Arif Traders through its Proprietor Mohammad Arif, son of Noor Alam, resident of Ward No. 14, Kishun Bagh, Mohammad Nagar, Gali No. 4, P.S.- Bettiah Town, District- West Champaran.
2. Shahid Iqbal and Vegetable Co., through its Proprietor, Shahid Iqbal, male, Son of Majahar Alam, resident of Ward No.- 12, Kalibagh, Garwan Toli, P.S.- Bettiah Town, District- West Champaran.
3. M/s Md. Zahid Ali and Sons, through its Proprietor Zahid Ali, male, son of Bhuteli Miyan, resident of Dwardebi Chowk, Gali No. 1, Ward No. 16, P.S.- Bettiah Town, District- West Champaran.
4. M/s Mahfooz Alam and Vegetable Co., through its Proprietor Mahfooz Alam, son of Abduul Hamid, resident of Purani Gudri, P.S.- Kalibagh (O.P.) Bettiah Town, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Agriculture, Government of Bihar, Patna.
2. The Collector West Champaran, Bettiah.
3. The Sub-Divisional Officer-cum-Special Officer, Agriculture Produce Marketing Committee, Bettiah, West Champaran.
4. The Secretary, Agriculture Produce, Marketing Committee, Bettiah, West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Subodh Kumar Jha, Adv. Mr.Ashok Kumar Gupta Mr. Pranav Kr. Jha, Adv.
For the Respondent/s	:	Mr. Mithilesh Kr. Singh (AC to SC15)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

3 18-10-2023

Heard the learned counsels for the parties.

2. Learned counsel appearing on behalf of the petitioners has stated that the issue involved in the present writ petition is squarely covered by the Judgment of this Hon'ble Court dated 03.03.2021 passed in CWJC No. 6201 of 2021 and also the Judgment of Hon'ble Division Bench of this Court



dated 22.02.2022 passed in CWJC No. 662 of 2022. Learned counsel has stated that the impugned order passed by the authority concerned directing the petitioners to vacate their subject premises without putting the petitioners on show cause notice for giving them opportunity of hearing is bad in law. Therefore, learned counsel appearing on behalf of the petitioners has stated that the impugned order may be set aside and petitioners may be given opportunity of hearing and submitting their explanation. This Court vide order dated 03.03.2021 passed in CWJC No. 6201 of 2021 has held as under:-

“The only contention of the petitioners is that the order contained in Annexure-4 series was passed without opportunity of hearing to the petitioners and the respondents have directed the petitioners to vacate their shops allotted by the erstwhile Agriculture Produce Market Committee, Bettiah situated at Bettiah-Muzaffarpur Highway.

Without going into the details of the pleadings, the writ petition is disposed of with the direction to the SDO to provide opportunity of hearing to the petitioners and after hearing the petitioners, the SDO shall pass appropriate reasoned order within a maximum period of one month from the date of receipt/production of a



copy of this order.

Until final decision afresh is passed by the SDO, the petitioners shall not be disturbed.

In the event the fresh order passed by the SDO goes against the petitioners, liberty shall be available to the petitioners to challenge the same in accordance with law.”

3. Learned counsel appearing on behalf of the respondents has not controverted the above statement and fairly stated that no notice has been served to the petitioner before passing the impugned order.

4. Having regard to the above made submissions and the above mentioned cases cited by the learned counsel appearing on behalf of the petitioners, the impugned order dated 16.12.2021 passed by the Sub-Divisional Officer-cum-Special Officer (Respondent No. 3) is set aside and the matter is remanded back to the Sub-Divisional Officer-cum-Special Officer (Respondent No. 3) for passing orders afresh duly putting the petitioners on notice and giving them an opportunity of hearing and submitting their explanation. The entire exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order. Any order passed shall be communicated to the



parties. Till such time the final orders are passed, petitioners shall not be disturbed.

5. With the above direction, the present writ petition is allowed.

(A. Abhishek Reddy , J)

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