

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11561 of 2022

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Sachchidanand Paswan son of Late Dwarika Paswan, Resident of Village - Babhangawan / Babhangama, P.S. - Bihpur, District - Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Dept. of Food and Consumer Protection, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Dept. of Food and Consumer Protection, Govt. of Bihar Patna.
3. The District Magistrate-cum-Collector, Bhagalpur, District - Bhagalpur.
4. The Sub-Divisional Officer-cum-Licensing Officer, Naugachia, District Bhagalpur.
5. The Block Supply Officer-cum-Circle Officer, Bihpur, District - Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Namrata Mishra, Advocate
For the Respondent/s	:	Mr. Arvind Ujjwal, SC-4
		Mr. U.P. Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 17-04-2023 The petitioner has assailed the order dated 31st of March, 2022 (Annexure-5), passed in Miscellaneous Supply Appeal Case No. 385 of 2019-20, by respondent No. 3, the District Magistrate-cum-Collector, Bhagalpur, whereby the appeal filed by the petitioner was disposed of stating that the petitioner appears to be not interested in pursuing his appeal on account of the petitioner being absent on the date when the case was taken up i.e., on 31st of March, 2022.

Learned counsel for the petitioner has pointed out that the petitioner has been appearing before the Collector on several



dates, but the Collector was busy elsewhere and his appeal was not taken up. Learned counsel has further pointed out that earlier the petitioner has also approached this Court by filing CWJC No. 4499 of 2019 (Sachchidanand Paswan Vs. the State of Bihar & Ors.) and vide order dated 29.05.2019, the said petition was permitted to be withdrawn with liberty to the petitioner to move before the District Magistrate, Bhagalpur in appeal and the appellate authority was directed to decide the same in accordance with law and in view thereof, it cannot be said that the petitioner was not interested in pursuing his appeal. The Collector was not required to pass order as if he is sitting in a court and acts as an appellate authority in terms of Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as “the Order, 2016). He, therefore, has to decide the case on merits. However, he has failed to perform his duties.

Learned counsel for the respondents submits that in absence of the petitioner, the order has been passed by the Collector, which he fairly submits that the collector should not have passed and the appeal should have been decided on merits. He prays that the matter be remanded back to the Collector with a direction to decide the same on merits.



This Court has considered the submissions. The Collector, against the order of the licensing authority, should act as an appellate authority in terms of Rule 32 of the Order, 2016. He does not sit in a court as if he is deciding a revenue case and, therefore, the manner and method adopted by him in deciding the case *per se* is illegal and the approach itself is wrongful. Once an appeal has been filed, he is required to hear the appellant or his counsel and in absence thereof, he has to decide the case on its own merit. There is no occasion for him to make an observation that the appellant is not interested in pursuing his appeal, more so, when this Court, in a writ petition filed by the petitioner earlier, has directed the appellate authority to decide the matter in accordance with law.

This Court finds that the administrative authorities are not performing their duties as assigned under the Rules and Acts and unnecessary burden is coming on this Court for deciding such cases and on several occasions, this Court has remanded the matter back to the Collector for deciding on merits. The Principal Secretary/Secretary, Food and Consumer Protection Department, Government of Bihar is directed to issue a general direction to all the appellate authorities to decide the appeals in terms of Rule 32 of the Order, 2016 on merits instead of waiting



for the presence of the advocate of either side. The appeals are not to be listed in courts like revenue cases and are to be decided on merits as soon as the same are filed before them. Time limit has already been provided under the Order, 2016 to decide the same within a period of sixty days.

In view of the aforesaid finding, the order dated 31st of March, 2022 (Annexure-5), passed in Miscellaneous Supply Appeal Case No. 385 of 2019-20, by respondent No. 3, the District Magistrate-cum-Collector, Bhagalpur, is quashed and set aside with a direction to the concerned appellate authority to decide the appeal strictly on merits within a period of one month from today.

With the aforesaid observations and directions, the present writ petition is allowed.

(Sanjeev Prakash Sharma, J)

Amrendra/-
Item No. 5

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