

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12161 of 2017

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M/s Radha Krishna Bakary House Son of Sri Yadunandan Prasad, Resident of
Village- Mocharim, Police Station- Bodh Gaya, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Food Safety Officer, Gaya Camp, Gaya.
3. The Additional Collector, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binay Kumar
For the Respondent/s : Mr.Manoj Kumar -GP-4

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 14-05-2025

1. The writ petition is filed for the following
relief:-

(i) To quash the order dated 12.07.2017
passed by the Adjudicating Officer-cum-Additional
Collector, Gaya in Case No. 01/15-16 whereby the
petitioner was penalized by imposing fine of Rs.
2,50,000/- (Rs. Two Lakh Fifty Thousand only) under
Section 52 of the Food Safety and Standards Act,
2006.

2. The brief facts culled from the writ petition
are that the petitioner is a licensee under the Food
Safety and Standards Act, 2006, bearing License No.



10412201000019, for manufacturing, marketing, trading, and other services under the trademark “Ldico” (Trade Mark No. 2369371), related to biscuits, rusk, coffee, tea, cocoa, and sugar. The petitioner is carrying on his business in accordance with the terms and conditions of the license by paying valid sales tax. Further, it is contended in the writ petition that an inquiry was conducted on the petitioner’s premises and a notice for sampling was served on 27.12.2012, for testing the samples as per prescribed parameters. It is specifically contended in the writ petition that the procedure for collecting and sending samples to the analyst was not followed by the Food Safety Officer in accordance with Rule 2.4. (1)(2) of the Food Safety and Standards Rules, 2011. A notice dated 17.12.2015 was issued to the petitioner by the Adjudicating Officer-cum-Additional Collector, Gaya, without enclosing a copy of the Food Analyst’s report. The petitioner was directed to respond in Case No. 01/2015-16, initiated against him under Section 52 of the Food Safety and Standards Act, 2006.



3. Learned counsel for the petitioner specifically contends that there has been a violation of the principles of natural justice, and therefore, the petitioner was constrained to approach this Court by filing the present writ petition.

4. On the other hand, a detailed counter-affidavit was filed by the State Government denying all allegations made in the writ petition. It is, contended that a copy of the Food Analyst's report was sent to the petitioner vide Letter No. 48 dated 05.03.2013 through registered post. As no appeal was preferred against it, the Analyst's report has attained finality.

5. It is the specific contention of the respondents that the petitioner filed the present writ petition without availing the alternative remedy of filing an appeal. Hence, prayed to dismiss the writ petition as it is devoid of merits.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondents.



7. Section 68 of the Food Safety and Standards Act provides ample power for adjudication to the Food Safety Appellate Tribunal, which is intended to safeguard the rights of parties. The petitioner, without availing the alternative remedy, approached this Court. Therefore, this Court is of the considered view that the petitioner shall avail the alternative remedy before the appropriate forum, within one month from the date of receipt of a copy of this order. In turn, the Appellate Authority shall consider the appeal, including the aspect of limitation, since the petitioner has filed the writ petition within the stipulated time. The Appellate Authority shall dispose of the appeal within two months from the date of filing of the appeal.

8. With the abovesaid observation, this Writ petition shall stand disposed of.

(G. Anupama Chakravarthy, J)

vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.05.2025
Transmission Date	

