

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21812 of 2015

Arising Out of PS.Case No. -13 Year- 2015 Thana -THAKRAHA District-
WESTCHAMPARAN(BETTIAH)

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Sandeep Tiwari, son of Bhuneshwar Tiwari, resident of village- Thakaraha,
P.S. Thakaraha, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Circle Officer-cum-Block Supply Officer, Thakaraha P.S.-
Thakaraha, District- West Champaran
3. The Sub Divisional Officer, Bagaha, District- West Champaran
4. The Officer-in-Charge, Thakaraha Police Station, District- West
Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kr Singh No. 1

For the Opposite Party/s : Mr. Nagendra Pd.(App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

4 16-12-2015 By way of present application under Section 482 of
the Code of Criminal Procedure (for short 'Cr.P.C.'), the petitioner
seeks quashing of the order dated 24.03.2015 passed by the
learned A.C.J.M., Bagaha in connection with Thakaraha P.S.Case
No.13 of 2015 registered under Section 7 of the Essential
Commodities Act, 1955 (for short 'E.C.Act'), whereby the learned
A.C.J.M. has rejected the application filed by the petitioner
seeking release of the seized wheat in connection with the
aforesaid police case.

Learned counsel for the petitioner has contended that
the petitioner is the owner of 365 bags of wheat seized from truck
bearing Registration No. UP-52F-5792 seized in connection with

the aforesaid police case and by the impugned order dated 24.03.2015 the learned A.C.J.M., Bagaha has mechanically rejected the application filed on behalf of the petitioner for release of the seized wheat.

Section 6A of the E.C.Act deals with confiscation of food grains, edible oil seeds and edible oils. Section 6E of the E.C.Act deals with bar of jurisdiction in certain cases. It provides that except the Collector or the State Government, all other authorities, Judicial or otherwise, would be debarred from making any order with regard to the possession, delivery, disposal or distribution of any essential commodity, seized in pursuance of an order under Section 3. Thus, a Magistrate has no jurisdiction to grant relief against seizure under Section 457 Cr.P.C.

However, from perusal of the counter affidavit filed on behalf of the State, it would be evident that a confiscation proceeding has already been initiated in connection with the seized wheat in the aforesaid police case bearing Confiscation Case No.24/15-16.

In view of the ongoing confiscation proceeding, the petitioner may seek his remedy before the Collector in Confiscation Case No. 24/15-16 by filing an appropriate application. In case an application is filed on behalf of the

petitioner in the confiscation case, it is expected that the Collector, Bettiah, West Champaran shall dispose of the same expeditiously.

With the aforesaid observations, the application is disposed of.

(Ashwani Kumar Singh, J)

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