

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21135 of 2014

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1. Ram Binay Prasad Gupta Son of Late Kishori Lal Gupta R/o -
Jamunapur, Aadapur, P.S. - Aadapur, Distt. - Champaran.

.... Petitioner/s

Versus

1. The State of Bihar Through The Collector , East Champaran at Motihari
2. The Collector, East Champaran at Motihari.
3. The Block Agriculture Officer, Dhaka, Distt. - East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Adv.

For the Respondent/s : Mr. Sadanand Paswan, GP-29

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 31-03-2015 Heard learned counsel for the parties.

The petitioner is a licensed dealer of fertilizers bearing licence No. 135 of 1998-99 which is renewed upto date. The petitioner has prayed for provisional release of the fertilizer to the tune of 885 bags, weighing 50 kg. each, which were seized following the registration of Aadapur P.S. Case No. 141 of 2014 under Section 7 of the Essential Commodities Act (hereinafter referred to as 'the Act'). The police case was followed by registration of a Confiscation Case No. 41 of 2014 which is pending before the Collector, East Champaran at Motihari.

The complaint of the petitioner is that the seizure was made on 9.10.2014 and a period of more than six months has lapsed with no sign of its conclusion. He submits that such delay is fatal

and would render the seized fertilizer useless.

Mr. N.K. Agrawal, learned Senior counsel for the petitioner has submitted that an application was filed by the petitioner for provisional release of the goods on 6.1.2015 under Section 6E of the Act but is not being disposed of. He thus prays for provisional release of the goods subject to furnishing of the security by the petitioner as deem fit and proper and which release be made subject to final outcome of the criminal/confiscation proceeding.

I have heard learned counsel for the parties and I have perused the materials on record. The submission made by learned counsel is just and acceptable.

Though the seized fertilizer is subject matter of confiscation proceedings but a delay in disposal thereof would render it useless as it is capable of turning redundant by passage of time. It is well settled that perishable goods should not be kept in seized conditions for long and appropriate orders should be passed in such matters by the concerned authority for allowing the fertilizer to decay in a seized condition, would be serving no useful purpose. It is however, stated that an application for provisional release of the fertilizer remains pending since 6.1.2015 before the Collector.

Having heard learned counsel for the parties on the prayer



for provisional release of the fertilizers and bearing in mind that the seized fertilizer would be rendered useless by passage of time, this Court taking note of the circumstances existing would order for provisional release of the fertilizer in favour of the petitioner subject to furnishing of such security as deem fit and proper by the District Magistrate-cum-Collector, East Champaran which shall neither be in the form of cash nor bank guarantee and which release would be governed by the final outcome of the confiscation proceedings/criminal proceedings.

It is made clear that this order of provisional release would be operative only in case if the seized fertilizers has not been sold by the District Magistrate in the light of the provisions underlying Section 6A of 'the Act' on the date of production of this order.

The District Magistrate, East Champaran is directed to order for provisional release of the fertilizer within four weeks of the date of receipt/production of a copy of the order subject to the fulfillment of the following terms and conditions:

- (a) The petitioners shall produce the papers supporting the purchase of the fertilizer in question.
- (b) The petitioner shall furnish security as deem fit and proper by the District Magistrate which shall neither be in the form of cash nor bank guarantee.

(c) The release of the fertilizer shall be governed by the final outcome of the criminal / confiscation proceedings.

With the observations / directions aforementioned, the writ petition is disposed of.

(Jyoti Saran, J)

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