

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16625 of 2014

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1. Anil Kumar son of Chhathu Sah resident of Laukha, P.S. Ghorasahan,
Distt. - East Champaran, Prop. of M/s Kisan Khad Bhandar, Laukhan,
Ghorasahan, East Champaran (Motihari)

.... 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, Ghorasahan, Distt. - East Champaran

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.19711 of 2014

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1. Chhathu Lal Prasad S/o Late Thakur Sah Resident of Ghorasahan, P.S.
Ghorasahan, Distt. - East Champaran, Prop. of M/s Chhathu Lal Prasad,
Ghorasahan, East Champaran (Motihari)

.... 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, Ghorasahan, Distt. - East Champaran

.... Respondent/s

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Appearance :

(In CWJC No.16625 of 2014)

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

For the Respondent/s : Mr. Vivek Prasad, G.P. 18

(In CWJC No.19711 of 2014)

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

For the Respondent/s : Mr. Ajay Bihari Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 31-03-2015 Heard Mr. N.K. Agrawal learned Senior counsel for the

petitioners and learned counsel for the State in the two writ

petitions.

A common prayer has been made by the petitioners in these



writ petitions for provisional release of the fertilizer which has been seized following the registration of police case and which has also led to registration of confiscation proceedings under the provisions of Section 7 of the Essential Commodities Act, 1955(hereinafter referred to as 'the Act') and which are pending before the District Magistrate-cum-Collector, East Champaran.

This matter was heard on 24.12.2014 when this Court taking note of the circumstances that despite pendency of the confiscation proceedings, no application had been filed by the petitioners under Section 6E of 'the Act' before the Confiscating Authority seeking provisional release of the fertilizer, gave liberty to petitioners to approach before the Collector and exhaust the statutory remedy so available to them under Section 6E of 'the Act'.

The matter has thereafter been taken up today when three months have lapsed and Mr. Agrawal learned Senior counsel for the petitioners submits that although individual applications have been filed in each of the writ petitions but have not been disposed of by the confiscating authority.

The details of the seized fertilizers and the proceedings initiated are as follows:

(1) C.W.J.C. No. 16625 of 2014

In this case 400 bags of fertilizer weighing 50 kg each

of the petitioner is stated to have been seized though as per petitioner 520 bags of fertilizer was actually seized in connection with Ghorasahan P.S. Case No. 324 of 2014 registered under Section 7 of the Essential Commodities Act, 1955 which has led to registration of Confiscation Case No. 21 of 2014 which is pending adjudication before the District Magistrate, East Champaran at Motihari.

(2) C.W.J.C. No. 19711 of 2014

In this case 380 bags of fertilizer of the petitioner weighing 50 kg. each was seized in connection with Ghorasahan P.S. Case No. 414 of 2014 registered under Section 7 of the Essential Commodities Act, 1955 which has led to registration of Confiscation Case No. 62 of 2014 which is pending adjudication before the District Magistrate, East Champaran at Motihari.

I have heard learned counsel for the parties and I have perused the materials on record.

Fertilizers as a subject matter is capable of being rendered redundant by passage of time. It is by now well settled that appropriate orders should be passed in such matters which are perishable by nature, by the concerned authority for keeping the fertilizer in a seized condition and allowing it to decay would be

serving no useful purpose.

Since the Collector concerned had jurisdiction to consider the matter that this Court had granted opportunity to the petitioners to file proper application but taking into consideration that more than three months have lapsed and no order is forthcoming as also bearing in mind that the 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 respective petitioners and which release would be subject to the final outcome of the confiscation/ criminal proceedings.

The directions would be operative only in case the seized fertilizers have 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 fertilizers of the petitioners 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 papers supporting the ownership of the fertilizers 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 fertilizers 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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