

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19400 of 2013

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1. Sanjiv Kumar Yadav, S/O Late Kusheshwar Yadav, Resident of Village- Bela, Jainagar, P.S- Jainagar, District- Madhubani.
 2. Pramod Kumar Gupta, S/O Late Krishna Prasad Gupta, Resident of Village- Bela, Jainagar, P.S- Jainagar, District- Madhubani.
- Petitioners

Versus

1. The State of Bihar through the Collector, Madhubani.
 2. The Collector, Madhubani.
 3. The District Supply Officer, Madhubani.
- Respondents
- =====

Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate
: Mr Dhananjaya Nath Tiwari
For the Respondent/s : Mr. Rakesh Kr Samrendra

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

5 30-09-2015 Heard learned counsel for the petitioners and the respondents.

The petitioners initially prayed for release of pulses, but now as the same has been auctioned sold and deposited in the Treasury, the petitioners pray for release of the money in their favour on deposit of adequate security.

The petitioners submit that the pulse was a schedule item under the Bihar Trade Articles (Licenses Unification) Order, 1984. However, as no license fee was prescribed, the Unification order, so far as pulse was concerned, remained unworkable. In support of his submissions, learned counsel has relied upon a Division Bench order of this Court in case of Satya Narain Prasad

vs. The State of Bihar & Ors, reported in 1988 PLJR 502.

He submits that for some time, the pulse was deleted from the list of schedule items, but however it was again included in the schedule from 25.09.2009 to 30.09.2010. A learned Single Judge in case of Shiv Shankar Prasad Vs. State of Bihar (Cr. Misc. No. 39110 of 2010 disposed of on 25.10.2013) quashed the proceedings as the Unification Order was not workable with respect to pulse.

Again pulse was included in the Unification Order from 03.11.2011 to 30.09.2012. The seizure was made on 05.07.2012. At the relevant time the pulse was a scheduled item. The petitioners do not dispute the said fact. They however assert that again no license fee has been prescribed for Trade article, as such the Control Order with respect to pulse would not be workable.

The State in para 24 of the counter affidavit has not refuted the specific submission of the petitioners that no license fees have been prescribed for pulses.

The petitioners thus have sought release of the sale proceeds of the pulse seized from his premises.

Counsel for the State submits that there is an alternative remedy of appeal under Section 6 © of the Act.

I find that the writ petition is pending since 2013 and the matter has also earlier been heard. Furthermore, is no license fee has been prescribed for the pulse.

In this view of the matter, I am not inclined to relegate the petitioners to the forum of appeal. If the petitioners file an application before the Confiscating Officer, he/she would release the sale proceeds in favour of the petitioners on furnishing adequate security within three months from the date of receipt of a copy of this order, which would be subject to result of Confiscation proceeding and criminal case.

This application stands disposed of.

(Samarendra Pratap Singh, J.)

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