

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5029 of 2016

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Poonam Kumari, Wife of Sudhir Kumar Das, resident of village - Basauni Kasba,
P.S. Piri Bazar, Distt. - Lakhisarai

.... Petitioner

Versus

1. The State of Bihar through the learned Collector, Lakhisarai
2. The Learned Collector, Lakhisarai
3. The Block Supply officer, Suryagarha, Lakhisarai

.... Respondents

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate
Mr. Dhananjaya Nath Tiwari, Advocate
Mr. Jairam Singh, Advocate
For the Respondent/s : Mr. Niranjana Kumar, AC to GP-27

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 21-06-2016

Heard parties.

Through this writ application, the petitioner, who is a dealer under Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order (hereinafter referred to as the 'LPG Order'), seeks unsealing of her business premises as it is urged that the sealing of the same is an action which is without jurisdiction and is in violation of the provisions of LPG Order.

The petitioner claims to be a dealer under the aforesaid LPG Order. Her premise was searched by a team comprising of Assistant District Supply Officer, Lakhisarai and Block Supply Officer, Halsi etc. along with Block Supply Officer, Suryagarha and



several articles were seized for which a seizure list was also prepared and the godown, i.e., the business premises of the petitioner also stands sealed by the authorities concerned as it is clearly stated in the FIR that the Gas godown has been sealed and the police was requested to ensure its protection and safety. The petitioner moved before the Sub-Divisional Judicial Magistrate, Lakhisarai for removing the seal from the godown. Such application was rejected vide Annexure-2 against which the petitioner filed Cr. Revision No.02/2016 before the Sessions Judge, Lakhisarai who had remitted back the matter to the Sub-Divisional Judicial Magistrate, Lakhisarai to ensure whether any confiscation proceeding has been started or not and then for taking a decision. If he is satisfied that no confiscation proceeding has been started then he would be required to pass order for removal of the seal from the godown on such terms and conditions as would be deemed fit and proper. Thereafter, the Sub-Divisional Judicial Magistrate, Lakhisarai again rejected the application of the petitioner finding that Confiscation Case No. 64/2015-16 has already been initiated and, therefore, such order of removal of seal cannot be passed. The petitioner has approached this Court for removal of seal from the godown.

The sole ground has been taken by learned counsel for the petitioner before this Court is that, though the authorities derived



power from the control order to search the premises and seize the articles etc. but there is no provision of sealing of the business premises of a person under the Control Order. Therefore, it is urged that the said action of sealing of premises is totally without jurisdiction and, as such, order should be passed for removal of the seal. Several decisions of this Court have been referred in this regard though not having been passed with respect to L.P.G. Control Order but in connection with Bihar Trade Articles (Licences Unification) Order, 1984 (hereinafter referred to as the 'Unification Order') as well as under identical provisions of Seeds Act, 1966. In ***Muneshwar Singh Vs. State of Bihar and Anr. [2001 (2) PLJR 265]***, a learned Single Judge has found that though an authority can exercise such other powers as may be necessary for the purpose of the Act or any Rule made thereunder, however, in the absence of any provision empowering the authority to seal the godown or premises, that action cannot be sustained in law. Similarly in one of the un-reported decision dated 6.12.1994 passed in ***Cr. Misc. No.17828/1994(Nandu Sultana Vs. The State of Bihar and Ors.)***, it has been held that under Control Order enacted in terms of Section 3 of the Essential Commodities Act for the purpose of regulation of the trade articles, there is no provision for putting seal either on the business premises or godown, therefore, direction was given to remove the seal.

Learned counsel for the State was confronted with the query as to under what provision the business premises of a person can be sealed. He refers to Clause 13 of the LPG Order specially clause 13 (1) (c) to impress upon this Court that the authorities are empowered to seal the premises. For better appreciation, the relevant provisions are quoted as under :-

“13. (1) Any Officer of the Central or the State Government not below the rank of Inspector duly authorized by a general or a special order, by the Central Government or the State Government, as the case may be or any officer or Government Oil Company not below the rank of Sales Officer, authorized by the Central Government, may, with a view to securing due compliance of this Order or any other order made thereunder :

(a)xxxxxxxxxxxxxxxx

(b)xxxxxxxxxxxxxxxx

(c) seize stocks of liquefied petroleum gas along with container and/or equipments, such as cylinders, gas cylinder valves, pressure regulators and seals in respect of which he has reason to believe that a contravention of this Order has been, or is being, or is about to be made”.

From perusal of the same, it would appear that though the competent authority has power to search the place and seize the articles which have been found in contravention of the provisions of the Control Order and, thereafter, put seal upon those articles but there is no provision of sealing the business premises and both the sides are

of the view that the confiscation proceeding has been initiated with respect to the seized articles not with respect to the premises.

Thus, in my considered view, in the absence of any provision empowering the authorities to put seal upon the business premises, such action cannot be sustained in law and, accordingly, confiscating authority is directed to shift the seized articles to a convenient place and, thereafter, remove the seal from the premises and release it in favour of the petitioner with condition that the petitioner should not involve the premises once again for any action in contravention of the provisions of the Control Order or Essential Commodities Act.

However, confiscation proceeding for seized articles would continue.

This disposes of the writ petition.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	A.F.R.
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