

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.832 of 2015

Along with

Interlocutory Application No. 3558 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 15274 of 2014

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1. The State of Bihar.
 2. The Principal Secretary, Department of Food and Civil Supply Government of Bihar, New Secretariat, Patna.
 3. The District Magistrate, Madhepura.
 4. The Sub Divisional Officer Udakishungang Madhepura
 5. The District Supply Officer, Madhepura.
 6. The Marketing Officer Puraini, District Madhepura.
 7. The Block Development Officer, Puraini Madhepura.
 8. The Incharge Officer Legal Cell District Madhepura.

.... Appellant/s

Versus

1. M/s Suraj Rice Mill, Puraini Madhepura through its Proprietor Amit Kumar Sri Ramkumar Choudhary, resident of Naya Tola Puraini District Madhepura.
2. The Bihar State Food and Civil Supplies Corporation LTD through its Managing Director Sone Bhawan Birchand Patel Marg, Patna.
3. The Managing Director, the Bihar State Food and Civil Supplies Corporation LTD Sone Bhawan Birchand Patel Marg, Patna.
4. The District Manager State Food Corporation, Madhepura.

.... Respondent/s

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Appearance :

For the Appellants : Mr. Himanshu Kumar Akela, AC to AAG 2
For the BSFC : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)
Date: 09-08-2016

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Re.: Interlocutory Application No. 3558 of 2015

The application is for condonation of delay of 155 days in filing of the appeal.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, the delay of 155 days in filing of the appeal is condoned.

Interlocutory Application stands disposed off.

Re.: Letters Patent Appeal No. 832 of 2015

The order dated 16.09.2014 is the subject matter of challenge in the present Letters Patent Appeal wherein, the learned Single Bench in a petition under Article 226 of the Constitution of India passed an order for permitting the miller to supply the rice to the Bihar State Food and Civil Supplies Corporation, Madhepura (hereinafter referred to as the 'Corporation') and thereafter, the mill will continue to function subject to the final decision of the criminal case.

Criminal proceedings have been initiated against the



respondent miller for violation of the Essential Commodities Act, 1955 (hereinafter referred to as the 'Act') and the Rules and the orders issued under the Act. The mill premises were sealed pending criminal trial. The learned Single Bench intervened to deliver the entire stock to the Corporation after removing the seal.

The sole argument of learned counsel for the appellants is that in terms of Section 6-E of the Act, no Court can deal with the matter which is the subject matter of investigation under the Act. Therefore, the order passed by this Court on 16th September, 2014 is contrary to the provision of the statute.

We have heard learned counsel for the parties and find no merit in the present appeal. The bar of jurisdiction in terms of Section 6-E is that no Court, Tribunal or other Authority shall not have any jurisdiction to make orders with regard to the possession relating to disposal, release or distribution of such essential commodities. Such bar is not applicable to this Court when it exercises jurisdiction under Article 226 of the Constitution of India. The jurisdiction under Article 226 cannot bar the jurisdiction of this Court as is sought to be argued on the basis of Section 6-E of the Act. Reference may be made to a judgment of the Hon'ble Supreme Court in the case of **L. Chandra Kumar v. Union of India** reported as (1997) 3 SCC 261, wherein the ousting of writ jurisdiction of this

Court under the Administrative Tribunal Act, 1985 was set aside.

In view thereof, we do not find any merit in the present Letters Patent Appeal and the same stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Anjani

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A