

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20226 of 2013

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Vijay Kumar Bharti, Son of Late Sachidanand Barnwal @ Sancho Modi, Resident of Village- Lohara, P.S. + Distt- Jamui, at Present Residing at Mohalla- Mahisauri, P.S. + Distt.- Jamui

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Jamui
3. The Sub-Divisional Officer, Jamui

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Prakash Mahto, Advocate

For the Respondent/s : Mr. Gopi Jha, AC to GP-25.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT

Date: 29-03-2016

Heard learned counsel for the petitioner and the State.

Through this writ application, the petitioner seeks direction to the respondents to return the seized/confiscated commodities along with interest @ 15% per annum to be calculated from the date of its seizure till the date of its return, which has been confiscated in Confiscation Case No.07/2006 by the District Magistrate, Jamui. A criminal case being Jamui P.S. Case No.309/2006 was also instituted against the petitioner for such seizure in which the petitioner has been acquitted of the charge vide judgment and order dated 24.01.2011 passed by the Sub-Divisional Judicial Magistrate, Jamui in Trial No.43/2011.

In the aforementioned facts and circumstances, the

petitioner seeks release of the confiscated/seized items or, if the same has already been sold, then the sale proceeds along with the interest.

A counter affidavit has been filed on behalf of the State taking a stand that an order has already been passed on 21.11.2015 for payment of Rs. 1,09,009/- which is the sale proceeds of the confiscated/seized items and it has already been paid to the petitioner vide Annexure-B/1 which is a cheque no.710425 dated 21.11.2015. However, it is contended on behalf of the petitioner that the writ application was filed in view of the fact that though such order was passed by the Collector, Jamui on 25.05.2012 itself but the amount was not being paid, thus, there is no occasion for passing another order by the Sub-Divisional Officer directing payment. It is contended that the petitioner is entitled for interest upon the aforesaid amount as the seizure could not withstand the test of legality.

I find force in the submission raised on behalf of the petitioner. Once there has been acquittal, the sale proceeds would have to be returned in terms of Section 6-C of the Essential Commodities Act. A similar issue has been considered by a Single Judge Bench of this Court in ***Gulab Chand Prasad Vs. The State of Bihar and Ors. [2010 (2) PLJR 316]***. In the aforesaid matter, the sale proceed was returned but no interest was granted. It was held by the learned Single Judge that money which was illegally retained by the

State has to be returned along with the interest.

The Section 6-C (2) of the Essential Commodities Act, 1955 itself is quite clear on this issue. For better appreciation, the same is extracted as under :

“Section 6-C(2):Where an order under section 6-A is modified or annulled by such judicial authority, or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under section 6-A, the person concerned is acquitted; and in either case it is not possible for any reason to return the essential commodity seized, such person shall, save as provided by sub-section (3) of section 6-A, be paid the price therefor as if the essential commodity had been sold to the Government with reasonable interest calculated from the day of the seizure of the essential commodity and such price shall be determined-

- (i) in the case of foodgrains, edible oilseeds or edible oil, in accordance with the provisions of sub-section (3-B) of section 3;*
- (ii) in the case of sugar, in accordance with the provision of sub-section (3-C) of section 3: and*
- (iii) in the case of any other essential commodity, in accordance with the provisions of sub-section (3) of section 3”.*

(emphasis is mine)

In above view of the matter, it is ordered that the petitioner is entitled for simple interest upon the sale proceeds @ 15% per annum to be calculated from the date of its seizure till the payment of the amount.

It is expected that the interest would be calculated and the payment would be made within a period of three months from the date of receipt/production of a copy of this order.

This writ application stands disposed of.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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