

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10072 of 2017

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1. Sohrai Yadav, Son of Musan Yadav, Resident of Village- Morhe, Police Station- Fatehpur, District- Gaya.
 2. Deepak Kumar, Son of Sri Krishna Saw, resident of Village- Kathaotiya Gurpa, Police Station- Fatehpur, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary Food & Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub Divisional Officer, Sadar Gaya.
4. The Circle Officer Cum In Charge Block Supply Officer, Tankuppa, Dist.- Gaya.
5. The Officer In Charge, Fatehpur, Police Station, Dist.- Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar
For the State : Mr. S. RAZA AHMAD- AAG5
Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-09-2017

Heard learned counsel for the petitioners and learned counsel for the State.

In the present writ petition, petitioners are challenging the action of respondent in seizing the vehicle. Petitioner has prayed for release of the vehicle.

A pick-up van was found loaded with the grain as has been claimed by the State Authority that the grain was/is meant for distribution to the poor class of the people covered under the scheme of BPL and Antodaya. The present petition has been filed



basically for release of the vehicle. Claim has been made by the petitioners that the grain which was loaded on the vehicle was not subsidised rather it was personal grain was being carried on the vehicle seized.

Pick-up Van bearing registration no. BR02AA-6755 is now standing in the police station under vagaries of nature. After some time the vehicle will be of no use nor will generate any revenue either to the petitioners or to the State. After some time it will be a complete loss to the petitioner even if later on it is found seizure is illegal.

Learned counsel for the State has submitted that as a confiscation proceeding has been initiated by the authority under the Act, the criminal court does not have jurisdiction to release the vehicle. In L.P.A. No.1647 of 2015 the issue of power and jurisdiction to confiscate the property has been referred as to whether the Collector has jurisdiction dealing with the confiscation proceeding or power lies to the court.

In such view of the matter, let the vehicle be released in favour of the petitioner but with the condition that whenever the confiscation authority or the Court will give direction for production of the vehicle he will be obliged to produce the same. He will not create any third party right or any encumbrance nor



he will change the feature of the vehicle. If it will be required any repair that can be done only after prior permission of the Collector. Photograph of the vehicle will be taken wherein chassis and engine number will be recorded with entire details have to be recorded in the photograph which will also bear the signature of the petitioners. During proceeding either before the criminal court or before Confiscating Authority he will not object that the grain was being carried on the vehicle. If petitioners file affidavit on the aforesaid term, on furnishing sufficient security to the satisfaction of the Collector , the vehicle will be released in the aforesaid conditions.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.9.2017
Transmission Date	NA

