

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7507 of 2017

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Harendra Prasad Son of Sri Bachu Prasad Yadav Resident of Chak Sunderpur, P.O. Badada, P.S. Noorsarai, District - Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna.
2. The Collector-cum-District Magistrate, Munger.
3. The Superintendent of Police, Munger.
4. The Sub-Divisional Officer, Kharagpur, District - Munger.
5. The District Supply Officer, Munger.
6. The Block Supply Officer, Haveli Kharagpur, District - Munger.
7. The Officer-in-Charge, Haveli, Kharagpur, District - Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar

For the Respondent/s : Mr. S.Raza Ahmad-AAG5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 25-07-2017

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

In this case, the petitioner is claiming for release of the truck bearing registration no. BR-9572 which was seized while carrying the contraband rice as has been claimed by the authority the same was subsidized rice meant for distribution to poor class of the people, illegally they were transporting the same for the purpose of black-marketing which has been disputed by the learned counsel for the petitioner.

A confiscation proceeding vide Confiscation Case No.



07 of 2016-17 is pending for adjudication. For a limited purpose, the petition has been filed for release of the truck on the ground that if the truck will remain standing either at the police station or in the office of the Collector will loose its value and the truck will be turned to junk and will not be of use for any person. It has further been submitted that the petitioner undertakes that he will not change the feature of the truck and whenever the authority will call upon the petitioner to produce the truck, he will produce the same instantly without any delay and also he will furnish sufficient security to the satisfaction of the Collector for release of the truck.

Learned counsel for the State submits that he has no knowledge as to whether the confiscation proceeding is pending or has finally been adjudicated.

An issue has been referred before the Larger Bench in LPA No. 1647 of 2015 for consideration as to whether the Collector has jurisdiction to initiate a proceeding for confiscation or the regular Court has jurisdiction to decide the confiscation. In that view of the matter, there is no need to keep the present petition pending, as the proceeding is still pending there.

In the meantime, the Collector, Munger would release the truck, in question, subject to satisfaction that the petitioner would file an affidavit mentioning therein that whenever it will be required



by the criminal court or by the confiscation authority, he will produce the truck, he will not create a third party right, will not change the feature of the truck and whenever it is required for any repairing, it will be done only with prior permission of the Collector. If such an affidavit is filed, the Collector, Munger will release the truck subject to the sufficient security furnished by the petitioner to his satisfaction and, if the petitioner fulfills all the conditions, the Collector, Munger will release the truck.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2017
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