

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1148 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- BEGUSARAI

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1. Chandan Kumar Singh @ Chandan Kumar, S/o Pramod Singh, R/o Village- Aadharpur, P.S.- Teghra, District- Begusarai.
 2. Arbind Poddar, S/o Late Kuleshwar Poddar, R/o Village- Ayodhya, P.S.- Teghra, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar Through The Collector, Begusarai.
2. The Collector, Begusarai.
3. The Block Supply Officer, Teghra, Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.N. Tiwari, Advocate
For the Respondent/s : Mr. Sanjay Kumar Giri, G.P.9
Mr. Nikhil Kumar Agarwal, Advocate
Ms. Deepika Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 22-08-2017

Heard learned counsels for the parties.

2. The petitioners have invoked the writ jurisdiction of this Court, under Article 226 and 227 of the Constitution of India, seeking relief of quashing of the proceeding of Confiscation Case No. 02 of 2017 pending before the Collector, Begusarai. The aforesaid proceeding was initiated under Section 6A of the Essential Commodities Act for confiscation of the seized wheat. The wheat was seized in connection with Teghra P.S. Case No. 163 of 2017 registered for offence under Section 7 of the Essential Commodities Act and Sections 414/34 of the Indian Penal Code.



3. Submission of the learned counsel for the petitioners is that wheat is not a controlled item and there is no need for licence for storage or sale of the wheat. The requirement of licence has already been abolished by the Legislature and the petitioners have stated these facts in paragraph 42 to 44 of the writ application. His further submission is that the respondents have not denied the aforesaid factual situation in the counter affidavit. His further submission is that identical issue is pending consideration in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) before the Full Bench of this Court for adjudication whether the Executive Authority can exercise such power even in respect of the uncontrolled items on the pretext of allegation that the same were found in the bags of FCI or the same were found in huge quantity.

4. Learned counsel for the respondents submits that since the petitioners were found storing wheat meant for government schemes, the FIR has been lodged and the Collector has power under Section 6A of the Essential Commodities Act to confiscate the seized articles.

5. I find substance in the submission of the petitioners aforesaid, hence, it is directed that further proceeding of confiscation case aforesaid shall remain stayed till the disposal of the above referred L.P.A. and shall be subject to the result of the L.P.A.



aforesaid.

6. By way of ad interim measure, let the seized wheat be released in favour of the petitioners who are owners, especially, considering the fact that wheat is not a controlled item and it is yet to be established during the trial that the same was stolen property. The release shall be subject to execution of surety bond by the petitioners to the satisfaction of the Collector, Begusarai. The surety shall not be in the form of cash deposit. The Collector, Begusarai shall decide the surety within ten days of receipt of this order and shall release the wheat in favour of the petitioners within forty eight hours of furnishing of the surety.

7. With the aforesaid observation, this writ application stands disposed of.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.08.2017
Transmission Date	25.08.2017

