

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13205 of 2017

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Abhishek Kumar son of Lazmi Yadav, resident of Bhat Bigha, P.S. Rampur,
District Gaya.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food and Civil Supplies Department, Govt. of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub-Divisional Officer, Tekari Subdivision, District - Gaya.
4. The District Transport Officer, Gaya.
5. The Block Development Officer, Guraru Block, District - Gaya.
6. The Block Supply Officer, Guraru Block, District - Gaya.
7. The Anchal Adhikari-cum-Block Supply Officer, Guraru Block, District - Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Arvind Kumar Singh
Mr. Mukul Jee, Advocates

For the Respondents : Mr. S. Raza Ahmad, AAG5
Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 28-11-2017

The present writ petition has been filed for the following
reliefs —

“For issuance of appropriate writ(s)/direction(s) to the respondents for release of vehicle which is a Truck bearing No. JH 02J-8205 of the petitioner in his favour which has been seized in connection with Guraru P.S. Case No. 57/17 dated 07.06.2017 instituted for the offence punishable under Section- 7 of Essential Commodities Act, 1955 on 05.06.2017 and for which a Confiscation Proceeding Case No. 13/17 has been instituted against the said vehicle of the petitioner by the Court of learned District Magistrate, Gaya but the same is still pending till date;



And/or for any other appropriate relief(s) to the petitioner for which he may be found entitled to in the eye of law”.

2. Learned counsel for the petitioner submits that the issue whether the Collector is empowered to direct confiscation, which is a judicial function, has been referred to a larger Bench by order dated 19.09.2016 passed in LPA No. 1647 of 2015. Pending decision by the larger Bench, a Division Bench of this Court in LPA No. 2383 of 2016 has taken the view that the vehicle can be released considering that they deteriorate while in custody with the officials of the Department and finally the confiscation proceedings are decided in favour of the owners of the vehicle. It is further submitted that the condition imposed for release of the truck by deposit of equivalent amount of the market value of the vehicle in cash is arbitrary and onerous.

3. Learned counsel for the respondents appears and has been heard.

4. The Division Bench in its order dated 17.04.2017 passed in LPA No. 2383 of 2016 referred to above, has directed as follows -

“Keeping view the aforesaid, we direct for the release of the vehicle (Regn. No.BR-02AA-6312) in accordance to the conditions stipulated in para 5 of the order passed on 21.2.2017 in L.P.A. No.306 of 2017 and impose a further condition that apart from the security bond a solvent surety shall be furnished by the petitioner to the satisfaction of the competent authority.”



5. In the above view of the matter and considering that the challenge to the Collector’s jurisdiction to pass an order of confiscation is itself pending before a larger Bench of this Court, the present writ petition is disposed of in line with and on the same terms as the aforesaid direction in LPA No. 2383 of 2016.

(Vikash Jain, J)

B.T/Ibrar

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29.11.2017
Transmission Date	N.A.

