

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1736 of 2015

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Surendra Yadav, son of Sadanand Yadav, Resident of Village - Raharia, P.S. - Bhargawan, District - Araria.

.... Petitioner

Versus

1. The State of Bihar through the Collector, Araria.
2. The Collector, Araria.
3. The Sub-Divisional Officer, Araria.
4. The Block Supply Officer, Araria.

.... Respondents

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Appearance :

For the Petitioner : Mr. Kashyap Kaushal,
Mr. Sanjay Kumar Sharma, Advocates.
For the Respondents : AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-11-2017

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

- (i) For issuance of writ in the nature of certiorari quashing the order dated 28.01.2011 passed by the respondent no. 2 in Confiscation Case No. 8/2010-11 originating from Bhargama P.S. Case No. 100/2010 and also order dated 29.10.2013 passed by the learned Additional Sessions Judge 1st, Araria in Confiscation Appeal No. 02/2011.
- (ii) For a direction in the nature of mandamus to the respondent no. 2 for release of the confiscated food grains in favour of the petitioner.
- (iii) For issuance of a writ in the nature of mandamus directing the respondent no. 4 to pay compensation to the petitioner for the loss suffered by the petitioner at the earliest in view of the fact that the food grains belonging to the



petitioner was arbitrarily seized and confiscated by the respondents since last four years.

- (iv) Any other relief or reliefs which the petitioner may be found entitled to in the facts and circumstances of the case.

2. Learned counsel for the petitioner submits that the order of confiscation and the appellate order have arbitrarily been passed as the wheat and rice in question were not liable to confiscation as there was no violation of Section 3 of the Essential Commodities Act. It is submitted that apart from F.I.R. filed, there is no finding of any violation having been committed by the petitioner in relation to the goods in question. It is further submitted that rice and wheat along with some other goods have been exempted from licensing requirements and other restrictions relating to stock limits and movement in terms of Removal of (Licensing Requirements, Stock Limits and Movement Restrictions) on Specified Foodstuffs Order, 2002 dated 15.02.2002 and thus such goods are not liable for confiscation.

3. A counter affidavit has been filed on behalf of the State in which however the stand of the petitioner has not been controverted.

4. Having heard the parties and on a careful consideration of the materials on record, this Court finds merit in the writ petition. Apart from institution of an F.I.R., there is no finding of any violation of the provisions of Section 3 of the E.C Act against the petitioner. From



the notification dated 15.02.2002, it also transpires that rice and wheat are no longer controlled commodities and the same could not be confiscated in absence of violation of any Control Order issued under Section 3 of the E.C. Act. This Court expressed a similar view in *C.W.J.C. No. 4888 of 2009 (Ranjeet Kumar vs. The State of Bihar and another)*.

5. In the above circumstances, the impugned order dated 28.01.2011 in Confiscation Case No. 8/2010-11 passed by the Collector, Araria as also the appellate order dated 29.10.2013 passed by the learned Additional Sessions Judge, 1st, Araria are hereby quashed.

6. The petitioner shall be entitled to be paid the price of the wheat and rice confiscated, which shall be quantified by the Collector, Araria in accordance with the provisions of E.C. Act within a period of 30 days from the date of filing of a representation by the petitioner in this behalf.

7. The writ petition accordingly stands allowed as above.

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08.11.2017
Transmission Date	N.A.

