

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18701 of 2015

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Kundan Kumar S/o Sri Dinesh Sah resident of Naya Bazar Ward No. 3, P.S. & District- Saharsa

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Madhepura
2. Sub-Divisional Magistrate, Uda Kishunganj under District- Madhepura
3. District Agriculture Officer, Madhepura
4. Block Agriculture Officer, Uda Kishunganj under District Madhepura

.... Respondents

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Appearance :

For the Petitioner : Mr. Diwakar Prasad Singh, Advocate
For the Respondents : Mr. Satya Deo Kumar, SC5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-11-2017

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

- (i) *That for issuance of appropriate writ, order or direction of writ in the nature pf certiorari quashing the order dated 26.05.2015 passed by the Respondent District Magistrate, Madhepura passed in Confiscation Case No. 08 of 2015 under Fertilizer Act was rejected by the District Magistrate, Madhepura by directing the Sub-divisional Magistrate, Udakishanganj that in case the petitioner (owner) of the pick-up van bearing its No. BR 19D-5940 and BR 19F 9546 want release of their vehicle then Sub Divisional Magistrate, Udakishanganj was directed to release the same after depositing price of the vehicle at the market rate, whereas the District Agriculture Officer, Madhepura was directed to constitute a two member committee who shall receive 120 Bags of Urea from the Police Station Udakishanganj and get the same distributed among the farmers and thereafter the proceed was directed to deposit in the treasury.*
- (ii) *That for issuance of appropriate writ, order or direction by way of mandamus commanding the respondents to release the pick-up van of the petitioner bearing BR-19D 5940 and BR 19F 9546 which was seized while transporting the Urea at the*



instance of local dealer and their staff, who had even supplied Challan to the petitioner which was produced before the authority at the time of interception of the vehicle.

(iii) *For grant of any other relief or reliefs to which the petitioner be found entitled in law be granted to them.*

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 pick-up van 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)

Chandran/Ibrar

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.11.2017
Transmission Date	N.A.

