

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18086 of 2016

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1. M/s Shubh Laxmi Traders And Commission Agent through its Proprietor Vikas Kumar Son of Late Nageshwer Sao vill/Moh.-Shantinagar Balti Factory, Police Station-Jahanabad, District-Jehanabad
 2. Irshad Ansari Son of Akbar resident of Hausing Board Colony, House Lig/1034, P.S.-Tatibandh, District-Raipur (Chhatisgarh)

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Food & Consumer Protection Department, Govt. of Bihar, Patna
2. The District Magistrate, Gaya
3. The Sub Divisional Officer, Nimchak Bathani, Gaya
4. The Block Supply Officer, Atari, Dist.-Gaya
5. The Officer In Charge, Atari Police Station, Dist.-Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar, Adv.

For the Respondent/s : Mr. Lalan Kumar, AC to GP9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 17-05-2017

In this case, the petitioner no.1 is claiming release of rice whereas the petitioner no.2, namely, Irshad Ansari, who is the owner of the truck, in question, is claiming release of truck.

The vehicle, in question, was seized with loaded rice. It has been claimed that the rice loaded therein was subsidized rice for the purpose of distribution to the subscribers. In pursuance thereof, a police case, Atari P.S. Case No. 181 of 2016 has been lodged under Section 7 of the E.C. Act, 1955, whereafter, a confiscation proceeding has been initiated for confiscation of the rice but, learned counsel for the petitioner submits that till date no confiscation proceeding has been initiated for confiscation of the vehicle.



Confiscation Case No. 03 of 2017 was initiated by the District Magistrate (Supply Department), Gaya. For release of the goods, one Deepak Kumar has filed an application. The Collector vide order dated 7.3.2017 has passed an order and finally disposed of the matter, thereby directed that the rice, which has been seized, be sold in the open market and the money should be deposited in the treasury. As in the confiscation proceeding, the petitioner no.1 was not a party and the party is one Deepak Kumar and the order has been passed against him. In such circumstances, this Court cannot give any relief to the petitioner no.1 who has approached this Court for release of the rice.

So far as release of truck bearing registration no. CG04JC 1577 is concerned, learned counsel for the petitioner submits that as the confiscation proceeding has not been initiated till date, the truck is standing in the police station, after facing the vagaries of the nature, it will turn into a junk, will be of no use to any person, makes a prayer that the truck should be released and whenever it will be required either by the criminal court or any proceeding initiated in confiscation proceeding against the vehicle, the petitioner no.2 will be obliged to produce the same for verification as well as he will not change the feature of the vehicle and whenever there will be need for any repairing, it can only be done after taking permission from the competent authority.



The petitioner no.2 is directed to approach to the concerned Chief Judicial Magistrate, Gaya who will examine the matter and pass an order in accordance with law.

The vehicle will be released to the satisfaction of the Chief Judicial Magistrate, Gaya subject to proper verification of the ownership of the truck and obtaining an undertaking on affidavit from the petitioner no.2 that whenever the truck will be required, he will produce the same. At the time of release of the truck, the petitioner no.2 must also give sufficient security and give his own surety and one surety will be of local person.

Let the Collector, Gaya should deposit the money which is recovered on sale of the rice in the treasury of the State Government.

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

Let a copy of this order be sent to the Chief Judicial Magistrate, Gaya through FAX at the cost deposited by the petitioner.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.05.2017
Transmission Date	NA

