

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8515 of 2017

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Brajesh Baranwal S/o Sri Shukhilal Baranwal Resident of Village - Sohagara, P.O.
- Sohagra, P.S. - Guthani, District - Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through the Collector, Siwan.
2. The District Magistrate-cum-Collector, Siwan.
3. The Supply Inspector-cum-Block Supply Officer, Guthani, Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Shahi

For the Respondent/s : Mr. Sanjay Kr. Giri-GP9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 26-07-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the petitioner is challenging the order dated
18.05.2017 passed by the Collector, Siwan in E.C. Act Case No.114
of 2017-18, whereby and where-under he has directed to release the
wheat subject to deposit the equivalent price of the wheat, which is
prevalent in the market.

The petitioner is running the business of food-grains, got
registered under Section 9 of the Value Added Tax, 2005. As per the
claim of the petitioner, he used to purchase the wheat from the small
farmers on payment of the price and sent the collected wheat in the
flour mill, situated at Hajipur, but in transit the truck was intercepted



by the Police and they lodged criminal case vide Guthani P.S. Case No.12 of 2017 for the offence under Section 7 of the Essential Commodities Act, wherein the Police has recorded, it appears that the wheat of the Food Corporation of India for the purposes of black-marketing removed the stitch made by F.C.I., changed the bag, was carrying the wheat to the mill.

A Confiscation proceeding was initiated with respect to the truck, wherein order was passed for the release of the truck. For present, this Court is not concerned with the release of the truck, but the Collector has directed to keep certain amount of wheat as sample and if the petitioner is ready to deposit the equivalent price, prevalent in the market, the wheat should be released in his favour.

Learned counsel for the petitioner submits that the petitioner is a trader, used to purchase the food-grains from the small farmer and has also granted the valid receipt to each of the farmers, there is no bar for the trader to purchase the wheat from the general market. It has further been argued that there is no evidence or material to indicate that the seized wheat is of the Food Corporation of India and it was being carried for the purposes of black-marketing.

In the present case, the petitioner has not challenged the order of the Collector on merit of the case; rather he has confined his prayer with respect to the release of the wheat. From the order of the



Collector, it appears that the petitioner has shown eagerness to take the wheat in the prevalent market rate. The request of the petitioner was taken into consideration and, in pursuance thereof, the Collector has passed the order accordingly.

In such view of the matter, this Court does not find any merit in the present writ application. Accordingly, this writ application is dismissed.

The petitioner, if so advised, may challenge the order of the Confiscating Authority before the appropriate forum. It is clarified that this Court is not giving any opinion on the merit of the case.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
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