

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9960 of 2018

IN

Cr. WJC 440 of 2018

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Kusho Sah, Son of Panchi Sah, Resident of Village - Takhti Bhan, P.S. & District-
Madhepura.

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Madhepura.
2. The Collector-cum-District Magistrate, Madhepura.
3. The Superintendent of Police, Madhepura.
4. The Sub-Divisional Officer, Madhepura.
5. The Block Supply Officer, Madhepura.
6. The Station House Officer, Madhepura Police Station, District- Madhepura.
7. The Motor Vehicle Inspector, Madhepura.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sunil Kumar Singh, Advocate

For the Respondents : Mr. Alok Ranjan, AC to AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 25-06-2018

Heard learned counsel for the petitioner as well as
learned counsel for the respondents.

2. The present writ petition has been filed for the
following reliefs –

“(i) For quashing/setting aside the impugned order dated 25.09.2017 passed by the learned Collector-cum-District Magistrate, Madhepura, respondent No. 2 in (EC Act) Confiscation Case No. 32 of 2017 whereby and whereunder the learned Collector has passed order for confiscation of Piaggio Half Dala Goods Vehicle Tempo bearing registration No. BR-43G-3680



seized in connection with Madhepura P.S. Case No. 227/17 U/s 7 of EC T Act and further directed the respondent No. 7 to determine the present market value of the seized vehicle and in case of payment of said amount the vehicle may be released in favour of petitioner.

(ii) For direction/directions to the respondent authorities to release the seized Piaggio Half Dala Goods Vehicle Tempo bearing registration No. BR-43G-3680, in favour of petitioner as being the owner of said vehicle.

(iii) For any other relief/reliefs for which the petitioner is entitled to in the facts and circumstances of the case.”

3. Learned counsel makes a short submission to impugn the order dated 25.09.2017 to the effect that the order of confiscation cannot stand as the same makes no mention of any specific order under Section 3 of the E.C. Act which has been violated or contravened by the petitioner. He relies on the order dated 11.11.2013 passed by this Court in C.W.J.C. No. 5791 of 2013 wherein it has been held as follows:

“Having heard the learned counsel for the petitioners, in my view, the writ petition must succeed. If we read the provisions of Sections 6-A and 6-B of the Essential Commodities Act it would be manifest that the sine qua non for initiating the confiscation proceeding is an order issued with reference to Section 3 of the



Essential Commodities Act and there must be violation of statutory order before the Collector gets the jurisdiction to initiate confiscation proceedings. Thus, the order of confiscation must note that which and what order has been violated. A reference to the impugned order of the Collector and the appellate order of the learned Judge would show that neither the Courts have referred to any order much less the statutory order which can be said to have been violated and in what manner the same has been violated. Thus, there being no finding of any order, which can be said to have been violated much less statutory order under the Essential Commodities Act, the initiation of confiscation proceeding and the order of the Collector becomes without jurisdiction.”

4. Learned counsel for the respondents appears and has been heard but however he is unable to controvert the facts as stated by the petitioner in the counter affidavit.

5. In the above circumstances, the impugned order dated 25.09.2017 passed by the respondent no. 2 directing confiscation of the petitioner's Piaggio Half Dala Goods Vehicle Tempo bearing registration No. BR-43G-3680 is hereby quashed and the Collector-cum-District Magistrate, Madhepura (respondent no. 2) is directed to ensure release of the petitioner's said vehicle, if not already confiscated, forthwith.



6. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	01.07.2018
Transmission Date	N.A.

