

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Civil Writ Jurisdiction Case No.1957 of 2018

- =====
1. Navin Kumar Sinha, Son of Krishna Murari Prasad, Resident of Village- Jhanakpur, P.S- Mohanpur, District- Gaya.
  2. Mithilesh Yadav, Son of Jhaman Yadav, resident of Village- Morhe, Police Station- Fatehpur, District- Gaya.

.... .... Petitioners

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, Gaya.
4. The Block Supply Officer, Fatehpur, District Gaya
5. The Officer In Charge, Fatehpur, Police Station, District - Gaya.

.... .... Respondents

=====

#### Appearance :

For the Petitioners : Mr. Binay Kumar, Advocate

For the Respondents : Mr. S. Raza Ahmad- AAG5

Mr. Alok Ranjan, AC to AAG 5

=====

**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**

ORAL JUDGMENT

**Date: 20-02-2018**

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

2. The petitioners seek a direction to the respondents to release 27 quintals of rice as well as pickup van bearing registration No. BR02W-1452 seized by Block Supply Officer, Fatehpur in Fatehpur P.S. Case No. 235 of 2017 under Section 7 of the Essential Commodities Act giving rise to Confiscation Case No. 78 of 2017 in favour of the petitioners to the satisfaction of learned District Magistrate, Gaya.

3. Learned counsel for the petitioners submits that the food grains and the vehicle in question seized are perishable in nature and are likely to deteriorate by the time the confiscation proceeding being



Confiscation Case No. 78 of 2017 pending before the District Magistrate, Gaya is concluded. 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. Moreover, it is submitted that the food grains and the vehicle in question seized are perishable in nature and are likely to deteriorate in the near future.

4. Learned counsel for the respondents appears and has been heard.

5. Having regard to the nature of prayer of the petitioners, this Court directs that the rice seized as well as pickup van bearing registration No. BR02W-1452 in connection with Fatehpur P.S. Case No. 235 of 2017 be released, if not already confiscated, in favour of the petitioners within a period of four weeks from the date of receipt/production of a copy of this judgment upon furnishing sufficient security, 5% of which should be in the form of cash/bank guarantee to the satisfaction of learned District Magistrate, Gaya, on proper verification of the ownership of the rice as well as pickup van bearing registration No. BR02W-1452 seized. Such release shall be subject to the final result of Fatehpur P.S. Case No. 235 of 2017 as well as Confiscation Case No. 78 of 2017. It will be open to the District Magistrate, Gaya to keep proper quantity of seized rice as sample for the purpose of exhibits in the case.



6. The writ petition stands disposed of.

**(Vikash Jain, J)**

B.T/Chandran

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | N.A.       |
| Uploading Date    | 21.02.2018 |
| Transmission Date | N.A.       |

