

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6038 of 2018

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Dilip Kumar, S/o Ashok Prasad Bhagat, Resident of Gouripur, P.S. -
Singheshwar, District- Madhepura at present Resident of Maranga, P.S. -
Maranga, District- Purnia.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, Madhepura.
3. The Block Supply Officer, Madhepura.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-04-2018

The present writ petition has been filed for release of seized truck of the petitioner bearing registration no. BR11S-4487 in connection with Madhepura P.S. Case No. 736 of 2017 under section 7 of the E.C. Act giving rise to Confiscation Case No. 86 of 2017.

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 vehicle 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)

B.T/Chandran

AFR/NAFR	NAFR
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