

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15666 of 2017

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Jai Kishore Prasad, S/o Prabhunath Bhagat, R/o Village- Kothua Sarangpur, P.S.
Daraunda, District- Siwan.

.... Petitioner

Versus

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

.... Respondents

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Appearance :

For the Petitioner : Mr. Satyendra Rai, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 29-03-2018

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

“(A) For issuance of a writ in the nature of Mandamus or any other appropriate writ/writs/order/orders/ direction/directions commanding the respondents to release the truck bearing Reg. No. BR28C2401 which has been seized in connection with Siwan (Town) Sarai, P.S. Case No. 346/2013 and EC Act Case No. 95/2013-14.

(B) For issuance of a writ in the nature of Certiorari for quashing the order dated 20.07.2017 passed by the learned District Magistrate-cum-Collector, Siwan in E.C. Act Case No. 95/2013-14 whereby and whereunder learned Collector directed the petitioner to deposit a sum of Rs. 156000/- (one lac fifty six thousand) in treasury Siwan and produce evidence of the same.



(C) For any other relief/reliefs to which petitioner is entitled to.”

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
CAV DATE	N.A.
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