

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7531 of 2018

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1. Soti Rai @ Patel @ Soti Patel, S/o Late Ramphal Patel, Resident of Village-
Gangapur Lutna Tola, P.S.- Ratwara, District- Madhepura.
2. Rajiv Bhagat @ Rajiv Kumar Bhagat, S/o Late Bindeshwari Bhagat, R/o
Mohalla-Aathgama, P.O.- Gangapur, P.S.- Alamnagar (Ratwara), District-
Madhepura.

.... Petitioners

Versus

1. The State of Bihar through the Secretary, Food & Civil Supply Department,
Old Secretariat, Patna.
2. The Secretary, Food & Civil Supply Department, Old Secretariat, Patna.
3. The District Magistrate-cum- Collector, Madhepura.
4. The Sub Divisional Officer, Madhepura.
5. The Block Supply Officer, Alamnagar, Madhepura.

.... Respondents

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Appearance :

For the Petitioners : Mr. D. N. Tewari,
Mr. Anant Kumar-1, Advocates
For the Respondents : Mr. Alok Ranjan, AC to AAG5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-05-2018

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

2. The present writ petition has been filed for setting
aside the order dated 27.01.2018 passed by the learned Collector,
Madhepura in connection with Confiscation Case No. 08 of 2016 by
which the Tractor of the petitioner bearing no. BR10G-3592 and Tailor
bearing registration No. BR-11S-1343 have been confiscated and for
issuance of a direction to the respondent authority to release the
aforesaid Tractor and Tailor in favour of the petitioner nos. 1 and 2
respectively during the pendency of the criminal case bearing



Alamnagar P.S. Case No. 31 of 2016.

3. Learned counsel makes a short submission to impugn the order 27.01.2018 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. No counter affidavit has been filed till date.

5. In the above circumstances, the impugned order dated 27.01.2018 directing confiscation of the petitioners' Tractor of the petitioner bearing no. BR10G-3592 and Tailor bearing registration No. BR-11S-1343 is hereby quashed and the Collector-cum-District Magistrate, Madhepura (respondent no. 3) is directed to ensure release of the petitioners' said vehicles forthwith.

6. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	24.05.2018
Transmission Date	N.A.

