

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7961 of 2018

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Sahid Akhtar alias Guddu Ansari, Son of Md. Alam, Resident of Village-
Dhooduti P.S. Thakurganj, District- Kishanganj.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply,
Government of Bihar, Patna.
2. The District Magistrate, Cum-Collector, Kishanganj.
3. Superintendent of Police, Kishanganj.
4. The Block Agricultural Officer, Thakurganj, District Kishanganj.
5. Officer In charge, Thakurganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ram Prawesh Kumar, Advocate

For the Respondents : Mr. S. Raza Ahmad -AAG5
Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-05-2018

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

2. This writ application has been filed for the following
reliefs --

*“(i) To issue appropriate writ(s), order(s), direction(s)
in the nature of certiorari quashing the order dated
10.10.2017 passed in Case No. 376 of 2017 by the
District Magistrate Cum-Collector, Kishanganj,
(respondent no.2) (hereinafter referred to as notice)
whereby and whereunder the respondent no.2 has issued
notice to the accused persons u/s 6A of the Essential
Commodities Act 1955 (hereinafter referred to as ‘the
Act’) with regard to confiscation of the Bolero Pickup
Van bearing registration no. WB 73B-8892 which has
been seized by the informant in Thakurganj P.S. case No.
77/2017 u/s 7 of the EC Act.*



(ii) To issue an appropriate writ in the nature Mandamus directing the respondent authorities that the vehicle of the petitioner be released in favour of the petitioner and restrained from auction and the order dated 10.10.2017 may not be enforced until the pendency of the present writ application.

(iii) To direct the respondents not to auction of the petitioner's vehicle and hand over the same to the petitioner with condition of operating in the investigation and trial on part of used and therefore implementation of the order dated 10.10.2017 be kept in abeyance until the pendency of this writ application.

(iv) To issue appropriate order(s), direction(s) holding that the executive has no power to exercise powers of confiscation when there is a pending criminal case and the matter is seized by a Judicial forum.

(v) To hold that the District Magistrate, Kishanganj lacked jurisdiction to entertain and proceed with confiscation case in relation to the Vehicle of the petitioner, when there is already a criminal case Thakurganj P.S. Case No. 77/2017 pending against the accused FIR named.

(vi) Any other relief or reliefs which the petitioners may be found entitled to in the facts and circumstances of the case."

3. Learned counsel for the petitioner submits that an FIR in Thakurganj P.S. Case No. 77 of 2017 for the offence under Section 7 of the Essential Commodities Act has been instituted. It is submitted that the Bolero Pickup Van be released as by its very nature it is susceptible



to deterioration if kept idle, apart from the fact that its seizure is resulting in deprivation of livelihood to the petitioner.

4. Having regard to the nature of prayer of the petitioner, this Court directs that the Bolero Pickup Van bearing registration no. WB 73B-8892 seized in connection with Thakurganj P.S. Case No. 77 of 2017, if not already confiscated, be released in favour of the petitioner within one week 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, Kishanganj on proper verification of the ownership of the vehicle and also with undertaking that the petitioner shall produce the said Bolero Pick-up Van before the concerned authorities as and when required to do so. The petitioner shall not encumber or dispose of the vehicle during pendency of the criminal case and/or confiscation case, as the case may be, nor create any third party rights such as might prejudice the rights of the State in such proceedings.

5. The writ petition stands disposed of.

B.T/Chandran

(Vikash Jain, J)

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

