

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7650 of 2014

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Dulichand Sah @ Duli Chandra Sah @ Duli Sah, Son of Yogendra Sah, Resident of Village - Khanpur, P.S. - Kishanpur, District - Supaul.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Supaul.
3. The Sub Divisional Officer, Supaul.
4. The Block Supply Officer, Kishanpur, District - Supaul.

.... Respondents

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Appearance :

For the Petitioner : Mr. D. N. Tewari,
Mr. Arun Kumar Jha, Advocates
For the Respondents : Mr. Roy Shivaji Nath, AAG 3

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 17-07-2018

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

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

“(i) For issuance of a writ in the nature of mandamus commanding and directing the Respondents to release the seized materials i.e. grains, rice and wheat in favour of this petitioner as he is a citizen of India and for no fault at anywhere on his part.

(ii) For issuance of writ in the nature of certiorari to quash the order dated 9.1.2014 passed in respect of seized materials, passed by Respondent no. 2 the Collector, Supaul in Supply Confiscation Case No. 50/13 whereby and whereunder the seized materials has been confiscated as seized by the police on the



information of Respondent no. 4, the Block Supply Officer, as well as Respondent no. 3, the S.D.O, Supaul and the Collector directed the S.D.O to sell out the seized materials and the amount be deposited in treasury.

(iii) For holding and declaration that seized materials are not of the government materials and it is the material of free market and petitioner was/is doing business of sell and purchase of food grains under the guidance of law.

(iv) For further holding and declaration that actions of respondents are illegal and it is abuse of process of law.

(v) And/or pass such other order or orders as deem fit and proper in the facts and circumstances of this case."

3. Learned counsel for the petitioner submits that the order of confiscation and the appellate order have arbitrarily been passed as the wheat and rice in question were not liable to confiscation as there was no violation of Section 3 of the Essential Commodities Act. It is submitted that apart from F.I.R. filed, there is no finding of any violation having been committed by the petitioner in relation to the food grains in question. 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.

4. Learned counsel for the respondents appears and has been heard. No counter affidavit has been filed till date.

5. Having heard the parties and on a careful consideration of the materials on record, this Court finds merit in the writ petition. Apart from institution of an F.I.R., there is no finding of any violation of the provisions of Section 3 of the E.C Act against the petitioner. From the notification dated 15.02.2002, it also transpires that rice and wheat are no longer controlled commodities and the same could not be confiscated in absence of violation of any Control Order issued under Section 3 of the E.C. Act. This Court expressed a similar view in *C.W.J.C. No. 4888 of 2009 (Ranjeet Kumar vs. The State of Bihar and another)*.

6. In the above circumstances, the impugned order dated 09.01.2014 in Confiscation Case No. 50/2013 passed by the Collector, Supaul (Annexure-4) is hereby quashed.

7. The petitioner shall be entitled to be paid the price of the wheat and rice confiscated, which shall be quantified by the Collector, Supaul in accordance with the provisions of E.C. Act within a period of 30 days from the date of filing of a representation by the



petitioner in this behalf.

8. The writ petition accordingly stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30.07.2018
Transmission Date	N.A.

