

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16104 of 2016

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Laxmi Wheat Product Private Ltd., 2nd Sector, Industrial Area, Harpur Alloth,
District - Samastipur through one of its Director Binod Kumar Agrawal S/o
Late Laxmi Narayan Agrawal Resident of village - Ujjiyarpur, P.S. - Ujjiyarpur,
District - Samastipur.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Civil Supply Department, Old Secretariat, Government of Bihar, Patna.
2. The Secretary, Food & Civil Supply Department, Old Secretariat, Government of Bihar, Patna.
3. The Collector, Samastipur.
4. The Sub-Divisional Magistrate, Samastipur.
5. The Block Supply Officer, District - Samastipur.
6. The Officer-in-Charge, P.S. - Musari Gharari, District - Samastipur.

.... Respondents

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Appearance :

For the Petitioner : Mr. N.K.Agrawal, Senior Advocate
Mr. Sanjeet 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: 31-01-2018

The present writ petition has been filed for setting aside the order and judgment dated 16.06.2016 passed in Confiscation Appeal No. 01 of 2016 (M/s Laxmi Wheat Products Pvt. Ltd. through Binod Kumar Agrawal vs. The State of Bihar and ors.) passed by the Court of learned District & Sessions Judge, Samastipur whereby the appeal filed by the petitioner company has been dismissed without appreciating the facts of the case and affirmed the order dated 13.05.2015 passed in Confiscation Case No. 50/2014 (State vs. Ankush Agrawal and ors.) passed by the learned Collector, Samastipur whereby the seized food



grains have been confiscated under Section 6A of the Essential Commodities Act.

2. 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 goods 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.

3. A counter affidavit has been filed on behalf of the State in which however the stand of the petitioner has not been controverted.

4. 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)* which has subsequently been affirmed by the Division Bench in its order dated 07.02.2011 passed in LPA No. 1037 of 2009.

5. In the above circumstances, the impugned order dated 13.05.2015 in Confiscation Case No. 50 of 2014 passed by the learned Collector, Samastipur as also the appellate order dated 16.06.2016 in Confiscation Appeal No. 01 of 2016 passed by the learned District and Sessions Judge, Samastipur are hereby quashed.

6. The petitioner shall be entitled to be paid the price of the wheat and rice confiscated, which shall be quantified by the Collector, Samastipur 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.

7. The writ petition accordingly stands allowed as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.02.2018
Transmission Date	NA

