

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6898 of 2014

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Sanjay Kumar Mandal Son of Sidhyanand Mandal Resident of Village: Dimhiya,
P.S. Tarabari, District: Araria

.... Petitioner

Versus

1. The State of Bihar represented through the District Magistrate, Araria
2. The District Magistrate, Araria
3. The Sub Divisional Officer, Araria
4. Block Supply Officer, Araria Block, Araria.

.... Respondents

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Appearance :

For the Petitioner : Mr. Kashyap Kaushal,
Mr. Sanjay Kumar Sharma, Advocates
For the Respondents : Mr. Ramashray Roy, AC to AAG 11

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 26-07-2018

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) To quash and set aside Annexure-7 i.e. an order dated 17.12.2013 passed in Confiscation Appeal No. 08/2012 by the Learned 1st Additional Sessions Judge, Araria whereby and whereunder the Confiscation Appeal filed by this petitioner for release of seized food grains was rejected and order of the original authority i.e. the District Magistrate, Araria dated 03.07.2012 was not interfered with rather the same was upheld;

(ii) To quash and set aside Annexure-5 i.e. an order dated 03.07.2012 passed by the District Magistrate, Araria in Case No. 15/11-12 under Section 6A of the Essential Commodities Act whereby and whereunder the District Magistrate, Araria was pleased to order for



confiscation of the seized food grains and directed the Sub Divisional Office, Araria to sell the same through Public Distribution System and deposit the same in District Treasury, Araria, and
(iii) To direct the release of the seized food grains in favour of this petitioner.”

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 food grains are not liable for confiscation.

4. Learned counsel for the State 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 03.07.2012 in Case No. 15/2011-12 passed by the Collector, Araria as also the appellate order dated 17.12.2013 passed by the learned Additional Sessions Judge 1st, Araria in Confiscation Appeal No. 08/2012 are 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, Araria 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	31.07.2018
Transmission Date	N.A.

