

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16440 of 2014

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Jai Prakash Yadav S/o Manager Yadav, Resident of Village - Shahpur, P.S. -
Maharajganj, District - Siwan.

.... Petitioner

Versus

1. The State of Bihar through the Collector, Siwan.
2. The Collector-cum-District Magistrate, Siwan.
3. The Sub-Divisional Officer, Maharajganj, District - Siwan.
4. The Block Supply Officer, Maharajganj, District - Siwan.
5. The Officer-in-Charge, G.B. Nagar, P.S. Tarwara, District - Siwan.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dineshwar Mishra, Advocate.

For the Respondents : Mr. Ashok Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 26-06-2018

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

2. The present writ petition has been filed for quashing of
the order dated 24.01.2014 passed by the respondent no. 2, whereby
he has refused to release the seized wheat of the petitioner and he has
directed to confiscate the same and for issuance of direction to the
respondent authority to release the aforesaid wheat.

3. Learned counsel makes a short submission to impugn
the order 24.01.2014 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.

5. In the above circumstances, the impugned order dated 24.01.2014 directing confiscation of the wheat of the petitioner is hereby quashed and the Collector-cum-District Magistrate, Siwan (respondent no. 2) is directed to ensure release of the wheat of the petitioner forthwith.

6. The writ petition stands allowed as above.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
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