

**IN THE HIGH COURT OF JUDICATURE AT PATNA****Civil Writ Jurisdiction Case No.5331 of 2014**

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Madan Prasad S/O Late Badri Prasad Resident Of Purani Bazar, Narkatiyaganj,  
P.S. Sikarpur, District - West Champaran

.... .... Petitioner/s

Versus

1. The State of Bihar, through the Secretary Food & Civil Supply
2. The District Magistrate, West Champaran at Bettiah
3. The Sub Divisional Officer, Narkatyaganj
4. The Circle Officer, Bettiah, Narkatiyaganj

.... .... Respondent/s

**Appearance :**

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate  
Mr. Vijay Anand, Advocate  
Mr. Anujit Sinha, Advocate

For the Respondent/s : Mr. Rakesh Prabhat, AC to SC 21

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**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**

ORAL JUDGMENT

**Date: 19-07-2018**

The present writ petition has been filed for a direction to the respondents to unseal the business premises of the petitioner sealed in connection with Shikarpur P.S. Case No. 34 of 2014 dated 12.02.2014 under Sections 420/120B of the Indian Penal Code and Section 7 of the E.C. Act and to set aside the order contained in memo no. 101 dated 07.02.2014

2. Learned counsel for the petitioner has submitted that an FIR in Shikarpur P.S. Case No. 34 of 2014 was instituted on the written report of the Circle Officer, Narkatiaganj alleging that pursuant to raid conducted in the house, godown and rice mill of the petitioner, various quantities of



food grains was found and alleged to be the property of the Bihar State Food and Civil Supplies Corporation and in respect of which no purchase invoice or other documents could be produced. Accordingly, the stock of food grains found and the rice mill and godown of the petitioner was sealed by the Circle Officer, Narkatiaganj.

3. Learned counsel for the petitioner submits that the action of the respondent authorities is wholly arbitrary and without any authority of law. It is pointed out that there is no provision whatsoever which empowers the authorities to seal the business premises of the petitioner.

4. Learned counsel for the respondents relies on the counter affidavit to justify the action of the respondents, *inter alia*, submitting that the respondent authorities have acted in accordance with law in view of irregularities discovered in course of the raid.

5. The stand of the petitioner that there is no provision for sealing the rice mill and the godown under the E.C. Act has not been controverted on behalf of the respondents and no provision in this regard has been referred to in order to justify the action of such sealing by the Circle Officer.

6. Having heard the parties and on a consideration of the materials on record, this Court finds merit in the writ petition.

7. Under the circumstances, it must be held that the action of the Circle Officer, Narkatiaganj, (respondent no. 4) in sealing the rice mill and godown of the petitioner is *ultra vires* the powers conferred upon him



under the provisions of law and hence the same cannot be sustained. The Circle Officer, Narkatiaganj (respondent no. 4) is accordingly hereby directed to remove the seal from the shop of the petitioner within a period of two days from the date of receipt/production of a copy of this judgment in the presence of the Office-in-charge, Shikarpur Police Station.

8. It is made clear that the concerned authorities shall be at liberty to make inventory of the stocks as well as take any samples as may be necessary in connection with Shikarpur P.S. Case No. 34 of 2014 at the time of removal of seal from the shop of the petitioner.

9. The writ petition stands allowed, as above.

**(Vikash Jain, J)**

Chandran/BT

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| CAV DATE          | NA         |
| Uploading Date    | 23.07.2018 |
| Transmission Date | NA         |

