

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.5615 of 2015**

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Vijay Kumar Sah @ Chotelal Prasad, S/o Sri Gurucharan Sah, Resident of  
Village- Sangarampur, P.S.- Tarwara, District-Siwan.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Collector, Gopalganj
2. The Collector, Gopalganj.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Advocate  
Mr. Dhananjaya Nath Tiwari, Adv  
For the Respondent/s : Mr. Parijat Saurav, AC to AAG 10

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

**ORAL JUDGMENT**

**Date: 07-08-2018**

The present writ petition has been filed for setting aside the order and judgment dated 29.08.2014 passed in Criminal Appeal No. 47 of 2014 passed by the Court of learned District & Sessions Judge, Gopalganj whereby the appeal filed by the petitioner under Section 6 (c) of the E.C. Act has been dismissed affirming the order dated 15.04.2014 passed in Confiscation Case No. 01/2014 passed by the learned Collector, Gopalganj 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 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. Learned counsel for the respondents appears and has been heard.

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 15.04.2014 in Confiscation Case No. 01 of 2014 passed by the learned Collector, Gopalganj as also the appellate order dated 29.08.2014 in Criminal Appeal No. 47 of 2014 passed by the learned District and Sessions Judge, Gopalganj are hereby quashed.

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

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