

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7540 of 2015

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Ram Sevek Sah, son of Late Kari Sah, R/o Sidhauri, P.S. Ashok Paper Mill,
District Darbhanga.

.... Petitioner

Versus

1. The State of Bihar through the Collector, Darbhanga.
2. The Collector, Darbhanga.
3. The Block Supply Officer, Hayaghat, Darbhanga.

... Respondents

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Appearance :

For the Petitioner : Mr. N.K. Agrawal, Sr. Advocate
Mr. D. N. Tiwari,

Miss. Preeti Kunwar, Advocates

For the Respondents : Mr. Mahendra Pd. Verma, AC to SC 20

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 05-09-2018

I.A. No. 6869 of 2018

The interlocutory application has been filed for amendment of the relevant portion of the prayer in the writ petition for setting aside the order dated 17.02.2017 passed in 6(A) Appeal No. 15 of 2015 by which the food grains which is subject matter of Ashok Paper Mill (A.P.M.) P.S. Case no. 04 of 2015 under Section 7 of the Essential Commodities Act has been confiscated in terms of section 6(A) of the E.C. Act and further respondents may be directed to return the sale proceed to the tune of Rs. 7,58,946/- and/or the price of the



food grains of the date of seizure in terms of the provisions of the E.C. Act.

2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated as forming part of the writ petition.

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3. The main writ petition has been filed for a direction to the respondents to release the seized food grains i.e. 462 bags of wheat i.e. 307 quintal 48 kg. and 529 bags of rice i.e. 313 quintals 84 kg. seized on 03.01.2015 by the Block Supply Officer, Darbhanga giving rise to Ashok Paper Mill (A.P.M.) P.S. Case No. 04 of 2015 under Section 7 of the Essential Commodities Act to the satisfaction of learned Collector, Darbhanga in Confiscation Case No. 13/2015.

4. Learned senior counsel for the petitioner submits that the order of confiscation has 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.

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

6. 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.

7. In the above circumstances, the impugned order dated 17.02.2017 in Confiscation Case No. 13 of 2015 passed by the learned Collector, Darbhanga is hereby quashed.

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

9. The writ petition accordingly stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.09.2018
Transmission Date	N.A.

