

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

**Civil Writ Jurisdiction Case No.2357 of 2017**

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Bhagwan Lal Bhagat, S/o Late Barfi Lal Bhagat, Resident of Village- Purab Bazar, Railway Dhala, Ward No.-30, P.S.- Saharsa, District- Saharsa.

.... .... Petitioner

Versus

1. The State of Bihar through the Secretary, Food & Consumer Protection Department, Govt. of Bihar, Patna
2. The Collector, Madhepura.

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Dhananjaya Nath Tiwari,  
Mr. Anujit Sinha, Advocates

For the Respondents : Mr. Lalan Kumar, AC to GP9

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

ORAL JUDGMENT

**Date: 05-04-2018**

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 02.05.2016 passed by the respondent no. 2, whereby he has refused to release the truck bearing Registration No. NL-02K-1379; and he has directed to confiscate the same; and for quashing the appellate order dated 19.08.2016 passed under Section 6C of the E.C. Act by learned Sessions Judge, Madhepura in Confiscation Appeal No. 03/2016 by which the appeal filed was dismissed; and for issuance of direction to the respondent authority to release the aforesaid vehicle which is owned and possessed by the petitioner as he is the registered owner of the aforesaid vehicle.

3. Learned counsel makes a short submission to impugn



the order 02.05.2016 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 but however he is unable to controvert the facts as stated



by the petitioner. The specific stand of the petitioner in this regard taken in paragraph-25 of the writ petition has not been controverted as no counter affidavit has been filed.

5. In the above circumstances, the impugned order dated 02.05.2016 passed by the respondent no. 2 directing confiscation of the petitioner’s truck bearing Registration No. NL-02K-1379 as well as appellate order dated 19.08.2016 passed under Section 6C of the E.C. Act by learned Sessions Judge, Madhepura in Confiscation Appeal No. 03/2016 are hereby quashed and the Collector-cum-District Magistrate, Madhepura (respondent no. 2) is directed to ensure release of the petitioner’s said vehicle forthwith.

6. The writ petition stands allowed as above.

**(Vikash Jain, J)**

B.T/Chandran

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