

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16429 of 2015

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Bishnudeo Prasad Yadav Son of Late Rajendra Prasad Yadav, Resident of
Mohalla Naya Tola Ward No. 26/35 Katihar, P.O. + P.S. and District -Katihar.

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate Katihar.
3. The Sub-Divisional Officer, Katihar.
4. The District Supply Officer Katihar.
5. The Supply Inspector, Katihar.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Bhola Prasad,
 Mr. Mukesh Kumar Jha, Advocates

For the Respondent/s : Mr. Sanjay Kumar AC to GA13

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 13-09-2018

The present writ petition has been filed for quashing the order contained in Memo No. 514 dated 21.07.2015 issued by the Sub-Divisional Officer, Katihar whereby the petitioner has been directed to deposit a sum of Rs. 1,56,241.22 against 124.49.500 quintals of rice which was handed over to him on 19.02.1993 and was the subject matter of Confiscation Case No. 498/92-93.

2. Learned counsel for the petitioner submits that the action of the respondents is wholly arbitrary and illegal. He invites reference to letter dated 05.03.1994 issued by the Supply Inspector, Katihar in pursuance of memo no. 110 dated 02.03.1994 of the Sub-Divisional Officer, Katihar, directing the petitioner to hand over the seized rice to Sri Mahavir Prasad Gupta, Assistant Manager, State Food Corporation, Katihar. An endorsement has been made by the Supply Inspector on the said letter dated 05.03.1994 itself to the effect that 122.04.500 quintals of rice was handed over to the said Sri Mahavir



Prasad Gupta the same day by the petitioner (Annexure-2). Thereafter the petitioner surrendered his licence in 1994 itself and after that he had no concern with the Public Distribution System. More than two decades thereafter, all of a sudden, the petitioner received letter dated 08.05.2015 directing him to deposit Rs. 1,56,241.22 against 124.49.500 quintals of rice kept in his '*Jimenaama*' in the year 1993. The petitioner responded to the same by letter dated 10.06.2015 stating the relevant facts. Without however considering the explanation of the petitioner much less assigning any reasons for not accepting the same, the impugned order vide memo no. 514 dated 21.07.2015 has been passed with a direction for deposit of the said amount by the petitioner.

3. Learned counsel for the respondents appears and opposes the writ petition. He invites reference to paragraph 7 of the counter affidavit wherein a stand has been taken that the Supply Officer is not the competent authority in such matters, rather it was the duty of the petitioner to obtain the order from the competent authority before handing over the seized rice to the Assistant Manager, State Food Corporation, Katihar.

4. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. To begin with, the petitioner has taken a clear stand in his aforesaid letter dated 10.06.2015 (Annexure-5) that he had handed over the rice to Sri Mahavir Prasad Gupta, Assistant Manager, State Food Corporation, Katihar pursuant to the order dated 02.03.1994 of the Sub-divisional Officer, Katihar. It has also been pleaded in paragraph 7 of the writ petition that thereafter, the petitioner surrendered his licence in 1994 which appears to have been accepted by the authorities without any demand being raised at the relevant time. It is also noted that after two decades for the first time, the issue has been raked up and a demand has been made against the petitioner. The objection of the petitioner raised in his letter dated 10.06.2015 as well as other objections raised



in the writ petition have not been answered in the counter affidavit. The respondents have not denied acceptance of the letter dated 02.03.1994 said to have been issued by the Sub-divisional Officer, Katihar nor the genuineness of letter dated 05.03.1994 (Annexure-2) in question. The stand of the petitioner in this regard therefore, has not been controverted by the respondents.

5. In the above view of the matter, this Court is of the view that the authorities have arbitrarily required the petitioner to deposit a sum of Rs. 1,56,241.22 and that too without passing a reasoned order for not accepting the stand of the petitioner. The impugned order dated 21.07.2015 (Annexure-6) is thus quashed.

6. The writ petition stands allowed.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.09.2018
Transmission Date	NA

