

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19453 of 2015

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Chandan Bhagat S/o Late Prithivi Chand Bhagat, Resident of Village - Patraha,
P.S. - Barhara Kothi, District - Purnia.

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. D.N.Tiwary, Adv
Mr. Jagdish Prasad Bhagat, Adv
For the Respondent/s : SMT. GEETA KUMARI, GP28

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-08-2018

Heard learned counsel for the petitioner and learned counsel for
the respondents.

2. The present writ petition has been filed for quashing the order
dated 27.12.2014 in Confiscation Case No. 117 of 2011 passed by the
Collector, Purnea, whereby he has confiscated the tractor of the petitioner
bearing Registration No. BR-34G-1701 and trailer bearing Registration
No. BR 11J 8810; and for issuance of a direction to the respondent
authority to release the aforesaid tractor and trailer which is owned and
possessed by the petitioner as the petitioner is the registered owner of
the same.

3. Learned counsel makes a short submission to impugn the order
dated 27.12.2014 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.

5. In the above circumstances, the impugned order dated 27.12.2014 confiscating the tractor of the petitioner bearing Registration No. BR-34G-1701 and trailer bearing Registration No. BR 11J 8810 is hereby quashed and the Collector-cum-District Magistrate, Purnea



(respondent no. 2) is directed to ensure release of the petitioner’s said tractor and trailer forthwith.

6. The writ petition stands allowed as above.

(Vikash Jain, J)

Chandran/Md. Ibrarul

AFR/NAFR	NAFR
CAV DATE	NA
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