

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5064 of 2018

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Sunil Kumar @ Sunil Thakur, Son of late Yogendra Thakur, Resident of Village -
Pithahi, P.S.- Madhepura, District- Madhepura.

.... Petitioner

Versus

1. The State of Bihar through the food Commissioner Department of Food and Civil Supplies, Patna.
2. The Collector-cum-District Magistrate, Madhepura.
3. The Superintendent of Police, Madhepura.
4. The Sub Divisional Officer, Madhepura.
5. The District Supply Officer, Madhepura.
6. The Block Supply Officer, Madhepura.

.... Respondents

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Appearance :

For the Petitioner : Mr. Kamal Kishore Singh

For the Respondents : Mr. S. RAZA Ahmad, AAG-5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-07-2018

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

2. The present writ petition has been filed for quashing
the order dated 21.12.2017 passed by the learned Sessions Judge,
Madhepura in Confiscation Appeal No. 4 of 2017 by which he dismissed
the appeal and affirmed the order dated 13.02.2017 passed by the
District Magistrate cum Collector, Madhepura in Confiscation Case No.
12 of 2016.

3. Learned counsel makes a short submission to assail the
impugned orders as unsustainable, to the effect that the order of



confiscation makes no mention of violation of any specific control order issued under Section 3 of the E.C. Act. 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. No counter affidavit has been filed till date.

5. In the above circumstances, the impugned order dated 21.12.2017 passed by the learned Sessions Judge, Madhepura and the



appellate order dated 13.02.2017 passed by the District Magistrate cum Collector, Madhepura (respondent no. 2) are hereby set aside. The matter remanded to the District Magistrate cum Collector, Madhepura (respondent no. 2) to pass orders afresh in accordance with law.

6. The writ petition stands allowed as above.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.07.2018
Transmission Date	N.A.

