

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19366 of 2017

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Prakash Kumar Singh, Son of Sri Deep Narayan Singh, resident of Village - Mahipura, P.S.- Jandaha, District- Vaishali.

.... Petitioner

Versus

1. The State of Bihar through Secretary, Food and Civil Supply Department, Old Secretariat, Patna.
2. The District Magistrate, Vaishali.
3. The Block Supply Officer, Jandaha, Vaishali.

.... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Anand, Advocate

For the Respondents : Mr. Upendra Pratap Singh, AC to SC4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-05-2018

Heard learned counsel for the petitioner as well as learned counsel for the respondents.

2. The present writ petition has been filed for release of truck bearing registration no. BR31GA/1578 seized by Block Supply Officer, Jandaha in connection with Jandaha P.S. Case No. 54/2017 registered under Section 7 of the Essential Commodities Act in favour of the petitioner to the satisfaction of learned District Magistrate, Vaishali at Hajipur, subject to result of criminal case/confiscation case.

3. Learned counsel for the petitioner submits that the issue whether the Collector is empowered to direct confiscation, which is a judicial function, has been referred to a larger Bench by order dated 19.09.2016 passed in LPA No. 1647 of 2015. Pending decision by the larger Bench, a Division Bench of this Court in LPA No. 2383 of 2016



has taken the view that the vehicle can be released considering that they deteriorate while in custody with the officials of the Department and finally the confiscation proceedings are decided in favour of the owners of the vehicle. It is further submitted that the condition imposed for release of the truck by deposit of equivalent amount of the market value of the truck in cash is arbitrary and onerous. It is further stated that food grains loaded on the truck have already been directed to be released by this Court in CWJC No. 7956 of 2017 in terms of the judgment dated 15.01.2018.

4. Learned counsel for the respondents appears and has been heard.

5. The Division Bench in its order dated 17.04.2017 passed in LPA No. 2383 of 2016 referred to above, has directed as follows –

“Keeping view the aforesaid, we direct for the release of the vehicle (Regn. No.BR-02AA-6312) in accordance to the conditions stipulated in para 5 of the order passed on 21.2.2017 in L.P.A. No.306 of 2017 and impose a further condition that apart from the security bond a solvent surety shall be furnished by the petitioner to the satisfaction of the competent authority.”

6. In the above view of the matter and considering that the challenge to the Collector’s jurisdiction to pass an order of confiscation is itself pending before a larger Bench of this Court, the present writ petition is disposed of in line with and on the same terms as the



aforesaid direction in LPA No. 2383 of 2016.

(Vikash Jain, J)

B.T/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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