

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12004 of 2018

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Gyash Ali Son of Makbool Hussain Resident of Village - Devi Nagar, Tilmari,
P.S. - K. Nagar, District - Purnea.

... .. Petitioner

Versus

1. The State of Bihar through the Principal, Secretary, Food and Civil Supply Department, Patna.
2. The Collector, Purnea.
3. The Sub Divisional Officer, Sadar, Purnea.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Bijendra Kumar Singh, Advocate
For the Respondent/s : Mr.AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 03-05-2019 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner in this case is though challenging the order dated 09.02.2016 passed by the District Magistrate, Purnea in E.C. Act Case No. 73 of 2015 by which the District Magistrate, Purnea has ordered for confiscation of Kerosene Oil under Section 6 'A' of the Essential Commodities Act, 1955 (hereinafter referred to as 'the Act, 1955') and further directed that the vehicle in question will be kept in custody of the Sub Divisional Officer, Sadar, Purnea.

In course of hearing learned counsel for the petitioner submits that in fact he is not challenging the order dated 09.02.2016 as regards the confiscation of the Kerosene Oil.



Submission is that he is only concerned with the release of the vehicle i.e. Tempo bearing Registration No. BR11/T/2252 which has been ordered to be kept in custody of Sub Divisional Officer, Sadar, Purnea.

Learned counsel for the State submits that if the petitioner is simply seeking release of his vehicle which has not been confiscated by the impugned order, he has remedy available by filing an appropriate application before the Collector, Purnea under the provisions of the Act, 1955 itself and on the petitioner's filing such an application, the Collector, Purnea may be directed to pass an appropriate order thereon.

Considering the facts and circumstances of the case and also the submissions made at the bar, this Court is of the considered opinion that vide order dated 09.02.2016 as contained in Annexure '4' to the writ application, the Collector, Purnea has directed for confiscation of Kerosene Oil but the vehicle in question has not been confiscated. In such circumstances as it appears from the impugned order when an application for release of the vehicle was filed, the same was required to be considered by the Collector, Purnea and an order was required to be passed which has not been done in the present case.



This Court also finds from the impugned order that the Collector, Purnea has taken note of the request of the petitioner for release of the vehicle in question but then he directed for giving custody of vehicle to the Sub Divisional Officer, Sadar, Purnea, which has got no rational and reason.

The vehicle is lying in custody of the Sub Divisional Officer, Sadar, Purnea for almost 5 years and it is loosing it's road worthiness each and every passing day.

Learned counsel for the petitioner has also placed before this Court a copy of the judgment dated 04.07.2017 passed by learned Sub Divisional Judicial Magistrate, Purnea in G.R. No. 3110 of 2014 to submit that in the criminal case being K. Nagar P.S. Case No. 336 of 2014 under Section 7 of the Act, 1955 the petitioner has been acquitted as the prosecution failed to prove the guilt beyond all reasonable doubt.

In these circumstances, there is no reason why the vehicle will remain in custody of the Sub Divisional Officer, Sadar, Purnea. This Court directs the Sub-Divisional Officer, Purnea to release the vehicle in question forthwith in favour of the petitioner on his producing the document of ownership of the vehicle in his name. Any further delay in release of the vehicle will be taken seriously by this Court.



This writ application stands allowed to the extent indicated above.

(Rajeev Ranjan Prasad, J)

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