

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6813 of 2019

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Sunil Kumar Son of Khilari Singh, aged about 44 years (Male), R/o
House No. A-1, Rampark, P.S.-Loni Dehat, District-Ghaziabad

... .. Petitioner

Versus

1. The State of Bihar through the Principle Secretary, Food and Civil Supplies, Bihar, Patna
2. The District Magistrate Hajipur at Vaishali
3. The Block Supply Officer, Desari District-Hajipur at Vaishali
4. The Station House Officer Desari Police Station, District-Hajipur at Vaishali

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Prince Kumar Mishra, Advocate
For the Respondent/s : Mr. Upendra Pratap Singh (AC to SC4)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 11-04-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

The petitioner in the present case is seeking a writ in the nature of mandamus directing and commanding the respondent authorities to release the truck bearing UP17AT-6009 (Ashok Leyland – 22 Wheeler), Chassis No. MB1UPKHD4JPED1361, Engine No. JEPZ119192 which has been seized by the Block Supply Officer, Desari on the ground that the same was loaded with 350 quintals of Rice which is suspected to be government subsidize rice and for which Desari P.S. Case No. 48/2019 dated 20.02.2019 has been registered under Section 7 of the Essential Commodities Act.



Learned counsel for the petitioner submits that so far as the rice is concerned, it is not a controlled item. By virtue of notification vide GSR 104(E), dated 15.02.2002 published in the Gazette of India, Extraordinary, Part-II dated 15.02.2002, any dealer who will be engaged in the purchase, sale, supply, distribution and storage has been allowed to freely buy, stock, sale, transport and distribute any quantity of rice. There is no requirement of a permit or license for this purpose.

Learned counsel submits that it is one of those cases in which this court has to consider release of vehicle where a Block Supply Officer has seized the vehicle transporting rice by simply making an allegation that the rice looked like a government subsidized rice. Learned counsel submits that there is no prima facie proof in the hand of the Block Supply Officer to say that the rice which was being transported on the truck was the government subsidized rice.

It is further submitted that no confiscation proceeding with regard to the vehicle in question is pending as on date. The vehicle is lying under the open sky for about 1 month and 20 days and for that reason the petitioner being owner of the vehicle is now liable to pay the hiring charges to the other agencies.

Learned counsel has relied upon the order dated



28.01.2019 passed in CWJC No. 15180/2018 and order dated 14.02.2019 passed in CWJC No. 24651/2018 by this court in which in similar circumstance this court has directed for release of the vehicle.

Learned counsel for the State submits that in the nature of the present case, he would instead of praying for time to file counter affidavit request this court to dispose of the writ application on the same line on which the other writ applications have been disposed of.

Considering the facts and circumstances of the case whereunder this court finds that the vehicle in question has been seized alleging that it was transporting rice which looked like government rice but there is otherwise no prima facie material to demonstrate the same at this stage, this court directs that the District Magistrate, Vaishali at Hazipur shall release the vehicle in question on the petitioner furnishing document of ownership and registration in his favour with two sureties one of whom will be a local surety to the extent of the value of the vehicle as indicated in the insurance document.

The petitioner shall give an undertaking that he will not deal with the vehicle in question in any manner whatsoever and shall not create any third party right or interest during



pendency of the confiscation proceeding and further as and when required he will produce the vehicle before the competent court or the authority as the case may be.

The vehicle shall be released within one week from the date of furnishing surety and the undertakings as stated above.

The writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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