

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8215 of 2019

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Surya Processed Food Pvt. Ltd. a registered company having its registered office at A-791-792, G D Colony, Near Hanuman Mandir, Mayur Vihar, Phase-II, Delhi-110096 through its authorised representative/signatory Sudhir Kumar Tiwari male aged about 32 years son of Bashishth Tiwari resident of LIG, 10/343, Hanuman Nagar, Kankarbagh, Patna-800020.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Cum Commissioner, Department of Prohibition and Excise, Govt. of Bihar, Patna
2. The District Magistrate cum Collector, Sitamarhi.
3. The Superintendent of Police Sitamarhi.
4. The Officer In Charge, Reega Police Station, Sitamarhi.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Adv. Mr. Alok Kumar Jha, Adv.
For the Respondent/s	:	Mr. Kumar Manish, SC 5

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

2 17-04-2019 Heard the parties.

The petitioner prays for release of Butter Delite Biscuits, Chocolates, fruit drinks and other confectionery items which were loaded on a truck bearing registration no. HR-45-B6577 which has since been seized in connection with Reega P.S. Case No. 358 of 2018, GR No. 1454 of 2018 registered for the offences punishable under Sections 272, 273, 414 of the Indian Penal Code and Section 30A of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act'), inter alia, on recovery of liquor.



Mr. Gautam Kumar Kejriwal, learned Counsel for the petitioner while making reference to the invoices at Annexure-1 series submits that the petitioner has nothing to do with the liquor recovered from the truck or the truck rather he had hired the vehicle for transportation of edible items which are mentioned in the invoices, copies of which are at Annexure-1 series and which are perishable but since it was seized along with items prohibited under 'the Act' that it is suffering the same consequences and has been confiscated vide order passed on 28.3.2019 by the confiscating authority in Confiscation Case No. 168/2019.

Mr. Kumar Manish, learned SC 5 while opposing the prayer submits that since the goods were found loaded on the same truck on which liquor was found which is banned in the State of Bihar, that the seizure have been made. He in reference to the order dated 28.3.2019 submits that the final order has already been passed in the confiscation case and appellate remedy is available under 'the Act'.

We have heard learned Counsel for the parties and have perused the materials on record.

According to the petitioner, he is not concerned with either the liquor part of the seizure or the truck rather he is



concerned with the edible items which were being transported through the truck in question and which are certainly not prohibited items under 'the Act'.

We completely fail to appreciate as to how the goods in question which are in the nature of biscuits, drinks and other confectionery items which have no concern with the items prohibited under 'the Act' could be confiscated. The submissions made on behalf of the petitioner is well taken and is accepted because the confectionery items of the petitioner so confiscated are beyond the prohibitory jurisdiction of 'the Act'. The seizure of the confectionery items in question is illegal and consequently the confiscation order is also held illegal to the extent it relates to Biscuits, Chocolates and fruit drinks etc. as described in Annexure 1 series and to such extent the order dated 28.3.2019 of the District Magistrate, Sitamhari is quashed and set aside.

We accordingly direct the District Magistrate, Sitamarhi, who is the confiscating authority under 'the Act' to release the food items as mentioned in the invoices, copies of which are at Annexure-1 series, on the production of documents supporting the ownership and transportation of the goods in question.



Let the release limited to Annexure 1 series take place within 48 hours of production of the documents supporting the ownership as well as transportation of the said items by the truck in question, if not already auctioned.

The writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Archana/
Surendra/-

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