

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8506 of 2019

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Manvinder Singh Son of Shri Parmjeet Singh Resident of B-132 ground Floor, Jail Road, Feten Nagar, Tilak Nagar, P.S.-Hari Nagar, West Delhi, District-delhi-110018.

... .. Petitioner/s

Versus

1. The State of Bihar .
2. The Senior Superintendent of Police, Patna.
3. The District Magistrate, Patna.
4. The Sub Divisional Officer, Patna City, Patna.
5. The District Supply Officer, Patna.
6. The Marketing Officer, Patna.
7. The Supply Inspector, Patna.
8. The Officer Incharge, Nadi Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shashi Bhushan Kumar,Advocate
For the Respondent/s : Mr. Alok Ranjan, AC to Aag5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 18-07-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

The petitioner in the present case is seeking release of the Truck bearing Registration No. HR55K-8601 which has been seized in connection with Nadi P.S. Case No. 202 of 2018 registered under Section 7 of the Essential Commodities Act, 1955.

Learned counsel for the petitioner submits that the truck in question is lying under seizure for last about 9 months and presently the confiscation proceeding with respect to the



vehicle in question being Confiscation Case No. 42 of 2018-19 is pending before the Collector-cum-District Magistrate, Patna.

Learned counsel for the State submits that despite having knowledge of the confiscation proceeding the petitioner has not appeared before the Confiscating Authority till date when the matter was fixed on 02.07.2019.

Learned counsel for the petitioner, however, submits that he had no knowledge of the date fixed in the matter.

Learned counsel for the State has further relied upon the order dated 03.06.2019 passed by this Court in C.W.J.C. No. 7566 of 2019 by which taking note of the views of the Hon'ble Full Bench of this Court in the case of **Baleshwar Roy Vs. The State of Bihar & Ors.** reported in **2018(4) PLJR 970** this Court did not entertain the writ application at this stage but granted liberty to the petitioner to file an appropriate application before the Confiscating Authority for release of the vehicle during the pendency of the Confiscation Proceeding. Copy of the said order is available at Annexure 'B' series.

Having heard learned counsel for the petitioner and the State, this Court is of the considered opinion that after the Full Bench judgment of this Court in the case of **Baleshwar Roy** (supra), this Court would be entertaining only those writ



applications in which it would appear to this Court that it is a case of gross injustice and that the procedures for the confiscation proceeding are not being followed.

In this case what has appeared from facts is that the petitioner has yet not appeared before the confiscating authority, for whatsoever reason it may be. It is not the plea of the petitioner that he is not aware of on-going confiscation proceeding. In these circumstances, it cannot be said that the petitioner has taken a bona fide steps towards getting a provisional release of the vehicle during the confiscation proceedings. It cannot be, thus, put in the category of cases where a gross injustice may writ large. It is also not a case where the provisions of the confiscation proceedings are not being followed. In C.W.J.C. No. 19520 of 2018 while passing order on 29.04.2019, this Court has taken note of the fact that in some of the cases this Court had directed release of the foodgrains in exercise of its power under Article 226 of the Constitution of India but now finding that such cases are cropping up and are being directly filed in this Court without seeking statutory remedy before the Collector who is competent to take a decision with regard to release of the foodgrains, the Court had changed its view. Now after Full Bench decision of



this Court, in the case of **Baleshwar Roy** (supra) the views of this Court have got strengthened and the Court is not willing to entertain this writ application at this stage. Liberty is, however, available to the petitioner to seek his remedy for provisional release of the vehicle before the Collector-cum-District Magistrate, Patna (respondent no. 3) by filing appropriate application within a period of three weeks from today and in case such an application is filed within the stipulated period, the respondent no. 3 shall consider the same and would pass an appropriate order thereon within three weeks thereafter.

While considering the application of the petitioner, it is expected that respondent no. 3 shall pass an order keeping in mind the various judicial orders passed by this Court in the similar matters.

Learned counsel submits that in this very case the foodgrains have already been released, it is open for him to bring this to the notice of the respondent no. 3.

(Rajeev Ranjan Prasad, J)

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