

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22763 of 2018

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Mamta Devi W/o Ishwar Chandra Gupta, Resident of Village – Pathuaha, P.S.
- Saharasa, P.S. Town Saharsa, District – Saharsa, proprietor of Ishwar Rice
Mill, Pathuaha, P.S. - Town Saharsa, District – Saharsa.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection
Department, Government of Bihar, Patna.
2. The Collector cum District Magistrate, Saharsa.
3. The Block Development Officer, Kahara, Saharsa.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.D.N. Tiwary, Advocate
For the Respondent/s : Mr.U.P. Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 25-04-2019 Heard learned counsel for the parties.

Petitioner in the case is aggrieved by the order dated
17.03.2018 passed in Confiscation Case No. 03 of 2018 passed by
the Collector-*cum*-District Magistrate, Saharsa by which 810 bags of
rice and two electronic weighing machines have been confiscated.

Learned counsel for the petitioner submits that the
impugned order as contained in Annexure ‘1’ to this writ application
is fit to be set aside on the solitary ground that prior to passing of the
impugned order no notice and opportunity of hearing was given to
the petitioner. The impugned order, thus, suffers from violation of
principles of natural justice as also is in contravention of the statutory
provisions. In this case connection learned counsel has relied upon the
information supplied to the petitioner under the Right to Information
Act, 2005. A copy of which has been brought on record with



supplementary affidavit.

It appears that on 30.11.2018 when this case was taken up, the respondents were directed to file counter affidavit within four weeks. No counter affidavit has come on the record but learned counsel for the State submits that since the petitioner has placed the information supplied to him under Right to Information Act, 2005 with the supplementary affidavit showing that no notice was sent to the petitioner and the case was disposed off on the very first date, thus, this application may be disposed off directing the Collector-*cum*-District Magistrate Saharsha to pass a fresh order.

After hearing learned counsel for the parties and on perusal of the records, this Court finds that as per information supplied to the petitioner vide Annexure '6' to the supplementary affidavit, no notice was sent to the petitioner in the confiscation proceeding. The impugned order is, thus, apparently bad in law for non-observance of the statutory provisions and violation of the principle of natural justice. Annexure '1' to the writ application which is impugned order in this case is, therefore, set aside.

The Collector-*cum*-District Magistrate, Saharsha is directed to pass a fresh order after giving an opportunity of hearing to the petitioner. It will be open for the petitioner to file an application before the Collector-*cum*-District Magistrate, Saharsha for release of 810 bags of rice and two weighing machines during pendency of the confiscation case on such grounds which may be available to the



petitioner and on such request made by the petitioner, the Collector-*cum*-District Magistrate, Saharsha shall consider the same and take an appropriate decision after going through the judicial pronouncement and order of this Court in similar matters in a number of cases. Such decision for release must be taken within a period of 15 days from the date of filing of the application.

At this stage learned counsel for the petitioner submits that the rice mill is under seizure since 12.12.2018. If it is so, it is open for the petitioner to make an appropriate application before the Collector-*cum*-District Magistrate, Saharsha for passing an appropriate order considering the request of the petitioner for unsealing of the rice mill.

This application, thus, stands disposed off with the aforesaid observations and directions.

(Rajeev Ranjan Prasad, J)

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