

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7896 of 2021

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Pankaj Kumar S/o Gopal Mandal, Resident of Village-Kusumaha, P.S.-Bausi,
District-Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Collector-Cum-District Magistrate, Banka
3. The Sub Divisional Officer, Banka.
4. The Block Supply Officer, Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate
For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date : 21-12-2021

Heard the learned counsel for the petitioner and learned
counsel for the State.

The present writ petition has been filed for quashing the
order dated 27.11.2020 passed under Section 6A of the Essential
Commodities Act by the learned Collector, Banka in Confiscation
Supply Case No. 66 of 2020-21 whereby and whereunder the
pickup van of the petitioner bearing registration no. BR51G-4265
has been confiscated in violation of the provisions as contained in
the Essential Commodities Act.



At the outset, the learned counsel for the petitioner has submitted that even if the order of confiscation dated 27.11.2020 is not interfered with by this Court, then also the pickup van of the petitioner is liable to be released in terms of second proviso to Section 6A(1) of the Essential Commodities Act, 1955, after paying the price of the confiscated article i.e. the price of 17 bags of wheat and 18 bags of boiled rice each containing 45 kgs. Learned counsel has further relied on a judgment rendered by a Single Judge of this Court dated 01.11.2013 passed in CWJC No. 13957 of 2013 (**Chhotu Yadav and Anr. Vs. The State of Bihar & Ors.**).

At this juncture, it would be relevant to quote hereinbelow Section 6A of the Essential Commodities Act, 1955:-

“6A. Confiscation of foodgrains, edible oil seeds and edible oils- (1) Where any essential commodity is seized in pursuance of an order made under section 3 in relation thereto a report of such seizure shall, without unreasonable delay, be made to the Collector of the district or the presidency town in which such essential commodity is seized and whether or not a prosecution is instituted for the contravention of such order, the Collector, may, if he thinks it expedient so to do, direct the essential commodity so seized to be produced for inspection before him, and if he is satisfied that there has been a contravention of the order.

Provided

Provided further that in the case of an animal, vehicle, vessel, or other conveyance used for



the carriage of goods or passengers for hire, the owner of such animal, vehicle, vessel or other conveyance shall be given an option to pay, in lieu of its confiscation a fine not exceeding the market price at the date of seizure of the essential commodity sought to be carried by such animal, vehicle, vessel or other conveyances.”

The learned counsel for the State has got no quarrel with regard to purport of the afore-said provisions contained under Section 6A of the Essential Commodities Act, 1955. Learned counsel has referred to paragraph no. 6 of the counter affidavit filed by the respondents to submit that the present writ application can also be disposed of in terms of the conditions laid down in order dated 01.11.2013 passed in the case of **Chhotu Yadav** (supra).

Having regard to the facts and circumstances of the case as also considering the submissions advanced by the learned counsel for the parties, we deem it fit and proper to dispose of the present writ petition in terms of second proviso to Section 6A(1) of the Essential Commodities Act and accordingly, it is directed that upon the petitioner depositing the price of the seized essential commodity (wheat/rice bags in question), which is to be determined in terms of Section 6C(2) of the Essential Commodities Act, 1955 and which determination shall be done by



the Collector, Banka, the aforementioned vehicle of the petitioner shall be released free from all encumbrances upon proper identification. It is further directed that appropriate orders shall be passed by the learned Collector, Banka, within a period of four weeks from today.

The writ petition stands disposed of on the aforesaid terms.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.12.2021
Transmission Date	

