

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 18999 of 2019

Rakesh Ranjan @ Munna Kumar @ Munna, Son of Mahendra Sharma @ Mahendra Prasad Singh @ Mahendra, resident of Village- Hazipur Narainpur, Police Station- Naubatpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Supply Department, Bihar, Patna.
2. The District Magistrate, Patna.
3. The Block Development Officer cum In charge, Block Supply Officer, Bihta, Patna.
4. The Officer in Charge, Bihta Police Station, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ayush Kumar
For the Respondent/s : Mr. Arvind Ujjwal (Sc4)
: Mr. Upendra Pratap Singh (AC to SC 4)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

4 22-07-2021 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard Sri Ayush Kumar, the learned counsel for the petitioner and Sri Upendra Pratap Singh, learned AC to SC 4 appearing for the State.

The present petition has been filed for release of the Pick-up van bearing registration no. BR 06- GB 8405, Engine no.-



GHF1K53290 and Chasis no. MA1ZN2GHKF1K73611 in connection with Bihta PS case no. 284 of 2019, instituted for the offence punishable under Sections 420, 489, 120B of Indian Penal Code, Bihar T.P.D.S. 2016 & Section 7 of the Essential Commodities Act, in favour of the petitioner.

The short facts of the case are that the petitioner is the registered owner of the Pick-up van in question, however on the alleged date and time of occurrence, the said Pick-up van was intercepted by the police patrolling party and 64 bags of rice were seized on the allegation of black-marketing and then an F.I.R. bearing Bihta PS case no. 284 of 2019 was lodged against the petitioner and the vehicle along with rice bags were seized.

The learned counsel for the petitioner has submitted that no confiscation proceeding has been initiated till date, hence the vehicle in question is required to be released since not only the vehicle but the rice in question are under seize since 17.03.2019.

Per contra, the learned counsel for the State has referred to paragraph no. 12 of the present petition to submit that the undertaking given in paragraph no. 12 of the present writ petition is required to be adhered to by the petitioner and further the learned counsel for the respondent State has also brought to the



notice of this Court, the second proviso to ***Section 6A(1) of the Essential Commodities Act, 1955*** to submit that after paying the price of the confiscated articles, the vehicle in question can be released.

I have heard the learned counsel for the parties and gone through the materials on record. This Court finds that despite grant of time to the respondent- State, no counter affidavit has been filed and in fact, this Court had indicated on the last date of hearing that in case, no counter affidavit is filed, the vehicle in question shall be released.

Notwithstanding, the fact that no counter affidavit has been filed, this Court while delving on the merits of the case, would like to refer to ***Section 6(A)(1) of the Essential Commodities Act, 1955***, which is reproduced herein below :-

“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 parties are in agreement that there can be no quarrel with regard to the purport of second Proviso to ***Section 6(A)(1) of the Essential Commodities Act, 1955*** and that the same has to be adhered to, notwithstanding the fact that a confiscation proceeding might have been initiated and might have even attained finality.

Having regard to the facts and circumstances of the case as also considering the implication of second Proviso to ***Section 6(A)(1) of the Essential Commodities Act, 1955***, it is directed that upon the petitioner depositing the price of the seized rice,



which is to be determined in terms of ***Section 6(C)(2) of the Essential Commodities Act, 1955*** and which determination shall be done by the Collector, Patna, the aforementioned Pick-up van bearing registration no. BR 06- GB 8405, Engine no.- GHF1K53290 and Chasis no. MA1ZN2GHKF1K73611 shall be released from all encumbrances, upon proper identification.

The writ petition stands disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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