

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20601 of 2021

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Sunil Kumar @ Sunil Thakur, S/O late Yogendra Thakur, resident of village -
Pithahi, P.S. and District Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the principal secretary Department of food and civil supplies, Patna.
2. The collectore-Cum District magistrate, Mahepura.
3. The Superintendent of Police, Madhepura.
4. The Sub-Divisional officer, Madhepura.
5. The District Supply officer, Madhepura.
6. Block Supply officer, Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamal Kishore Singh
For the Respondent/s : Mr. Arvind Ujjwal (SC4)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 04-08-2022

Heard Mr. Vinod Shankar Modi, learned Advocate for the
petitioner and Mr. Upendra Pratap Singh, for the State.



The petitioner is aggrieved by the confiscation of his vehicle, which was seized in connection with Madhepura P. S. Case No. 333 of 2016, dated 19.06.2016. The vehicle was found to be laden with subsidized foodgrains, namely, rice and wheat. The petitioner claims to be the owner of the vehicle which was let out to somebody on oral contract and the petitioner had no idea that his vehicle would be used for transporting subsidized foodgrains, thereby making the vehicle liable for seizure and confiscation.

A confiscation proceeding was started with respect to the vehicle belonging to the petitioner and the District Magistrate, on finding that there was no good ground to believe the defence of the petitioner that he had no idea about the vehicle being put to such wrong use, directed for the confiscation of the vehicle. The aforesaid order of the Collector was affirmed by the Appellate Authority, namely, the District Judge of the concerned District.

The petitioner challenged the aforesaid orders of confiscation and its affirmation in Appeal before this Court *vide* C.W.J.C. No. 5064 of 2018 in which it was contended that both the Courts did not at all advert to the fact as to which Control



Order had been violated for any justification of seizure and confiscation of the vehicle in question.

Accepting the aforesaid ground of the petitioner, a Bench of this Court remitted the matter before the Confiscating Authority, namely, the District Magistrate- cum-Collector, Madhepura to pass a fresh order in accordance with law after identifying the Control Order which allegedly had been violated by the petitioner. Thereafter, the matter was decided by the Confiscating Authority. It was found that under the Essential Commodities Act, 1955, a notification of the Government *vide* G.S.R. No. 613 (E) dated 31.01.2001 was issued which mandated that anyone who would be found engaged in the distribution and handling of essential commodities or diversion or theft of stocks from central godown to Fair Price Shop premises or at the premises of the Fair Price Shop would be violating the provisions of the Act. The explanation appended thereto defined "diversion" to mean unauthorized movement of essential commodities released from the central godown but not reaching the intended beneficiaries under the Public Distribution System.



Apart from this, it was found that no evidence was furnished by the petitioner to substantiate his claim that he had given the vehicle on oral agreement for rent to somebody else who had put the vehicle to misuse.

On these two grounds, it was found that the vehicle was liable to be confiscated.

After the passing of the aforesaid order by the District Magistrate, the petitioner again preferred an application before this Court *vide* C.W.J.C. No. 2021 of 2019.

In this instance, finding that the petitioner had not exhausted his remedy of appeal, he was directed to prefer an appeal, if he remained aggrieved with the orders passed by the Confiscating Authority.

Armed by the aforesaid order passed by this Court, the petitioner preferred an appeal before the Appellate Authority *vide* Confiscation Appeal No. 3 of 2019 which too was dismissed on the same set of grounds, namely, that the Government notification issued under the Control Order of 2001 was violated and the petitioner did not bring any evidence in support of his claim that he had no idea about the vehicle being put to wrong use.



From the pleadings of the petitioner, we do not find any material on record in support of the claim of the petitioner that he had no idea about the vehicle being put to wrong use without his consent. A bald statement has been repeated at all stages that the vehicle was given on oral contract to somebody to ply the same.

While perusing the records of this case, this Court also found that the Confiscating Authority, in the first instance, had also explored the possibility of giving back the vehicle to the petitioner on the market value. This, perhaps, was under a mistaken notion that the provisions contained in Section 6(A) of the Central Act was available in the State Act as well.

The State Act does not provide for any such provision. In fact, the State Act specifically provides that the vehicle shall not be released once confiscation proceeding is initiated and it could only be released on the orders of the Court which does not find the criminal accusation/prosecution against the petitioner to be correct and orders for release of such vehicle.

In that view of the matter, such option given by the Confiscating Authority was never accepted by the petitioner and was also not noted by the Appellate Authority.



Finding no fault with the order passed by the
Confiscating Authority as also the Appellate Authority, we are left
with no option but to dismiss this writ petition, but without any
order as to costs.

The writ petition stands dismissed accordingly.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

skm/ashishkr/-

AFR/NAFR	NAFR
CAV DATE	NA
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