

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8980 of 2020

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Kamala Devi W/O Arvind Panjiyara, Resident of Village Dhangola,
Rahmatpur, Asarganj, P.S. - Tarapur, District - Munger.

... .. Petitioner/s

Versus

1. The state of Bihar through the Principal Secretary, Department Food and Supply, Government of Bihar, Patna.
2. The Collector -cum-District Magistrate, Bhagalpur.
3. The Sub-Divisional Officer, Sadar Bhagalpur.
4. The Block Supply Officer, Sultanganj.
5. The Superintendent of Police, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Diwakar Sinha, Advocate
For the Respondent/s : Mr.Lalit Kishore (AG)

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

7 24-03-2022 The present writ petition has been filed for directing the respondent-State to release the truck of the petitioner bearing Registration No. BR-08G-1095, Chassis No. MAT42603191E10855 lying at Sultanganj Police Station in connection with Sultanganj P.S. Case No. 200 of 2019 dated 09.08.2019.

2. The brief facts of the case are that upon confidential information having been received by the S.D.O., Sadar, Bhagalpur, directions were issued to the Block Supply Officer,



Suultanganj and the S.H.O., Sultanganj for taking appropriate action qua the truck in question which was loaded with 138 jute bags containing wheat and was found in an abandoned condition on the road side in between Sultanganj-Sahkund road near village-Mirhatti. The said truck was then seized by the police and an FIR bearing Sultanganj P.S. Case No. 200 of 2019 was registered under section 7 of the Essential Commodities Act and Section 120(A)/201 of the Indian Penal Code.

3. It is a matter of record that subsequently a confiscation proceeding vide Confiscation Case No. 165/2019-20 dated 28.09.2019 was initiated by the Collector-cum-District Magistrate, Bhagalpur. The Collector-cum-District Magistrate, Bhagalpur had then sought for a report regarding the ownership of the truck in question and upon having got the requisite information, he had issued a notice to the petitioner which was duly received by the petitioner. It appears that the notice dated 25.05.2021 was received by the petitioner on 01.06.2021 and then the petitioner had filed her show cause reply. It is equally a matter of record that vide order dated 26.08.2021, the Collector-cum-District Magistrate, Bhagalpur has passed the final order in Confiscation Case No. 165/2019-



20, whereby the wheat and truck in question have been confiscated and directed to be auction sold.

4. The learned counsel for the petitioner has submitted that a learned single Judge of this Court in the present case vide order dated 13.04.2021 had directed that in case no confiscation proceeding is pending as on that date, the Collector-cum-District Magistrate, Bhagalpur shall ensure that the vehicle is released in favour of the petitioner after verification of document of ownership subject to such terms and conditions which he may deem fit and proper. Thus, it is submitted that since up to the said order i.e. 13.04.2021, no notice had been either issued or served upon the petitioner, it was incumbent upon the Collector-cum-District Magistrate, Bhagalpur to have released the truck in question as per the direction of this Court.

5. At this juncture, we have asked the learned counsel for the petitioner as to whether he intends to challenge the final order dated 26.08.2021 passed by the learned Collector-cum-District Magistrate, Bhagalpur or prefer an appeal under Section 6C of the Essential Commodities Act, 1955, the answer is in the negative and it has been vehemently argued that the



Collector-cum-District Magistrate, Bhagalpur is required to be directed to release the truck of the petitioner.

6. Per contra, the learned counsel for the respondent-State has submitted that after the FIR in question was lodged on 09.08.2019, the S.D.O. Sadar, Bhagalpur had requested the Collector, Bhagalpur vide his letter dated 16.08.2019 to confiscate the seized article/truck under Section 6A of the E.C. Act, 1955, whereafter the Collector had initiated the confiscation proceedings vide order dated 28.09.2019 and a case bearing Confiscation Case No. 165 of 2019-20 was initiated. It is thus submitted that as on the date of passing of the aforesaid order dated 13.04.2021 in the present case, the confiscation proceedings had already been initiated and were pending, hence the Collector-cum-District Magistrate, Bhagalpur has rightly not released the vehicle in favour of the petitioner by in fact obeying the directions of this Court issued vide order dated 13.04.2021. It is further submitted that since the petitioner has participated in the confiscation proceedings and has filed her show cause reply whereafter the final order dated 26.08.2021 has been passed under Section 6A of the Essential Commodities Act, 1955, the only remedy available to



the petitioner is to take recourse to filing of an appeal under Section 6C of the Essential Commodities Act, 1955, subject to the period of limitation prescribed therein.

7. We have heard the learned counsel for the parties and find from the records that the confiscation proceedings bearing Confiscation Case No. 165/2019-20 was initiated long back on 28.09.2019 and upon issuance of notice, the petitioner had also appeared and filed her show cause reply, whereafter the Collector-cum-District Magistrate, Bhagalpur has passed the final order dated 26.08.2021, which has not been assailed by the petitioner in the present proceedings, hence we find that no lis survives in the present matter, thus the present writ petition stands dismissed.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

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