

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.953 of 2022

Arising Out of PS. Case No.-30 Year-2022 Thana- ARARIA District- Araria

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M/s Ganpati Agriculture Zero Mile , Market Road, Araria 854311,
Represented Through its Prprietor , Namely, Smt. Ratna Devi, GenderFemale,
Aged about 53 Years, W/o Shri Pramod Kumar Sah Resident of Village - Post
and Block - Araria, Ward no.10, Ashram Road, P.S. Araria, Distt.- Araria.-
854311

... .. Petitioner/s

Versus

1. The State of Bihar represented throuth the Principal Secretary , Agriculture
Deptt., Govt. of Bihar Patna, Bihar.
2. The Director General of Police, Bihar, Patna. Bihar
3. The Distt. Magistrate, Araria. Bihar
4. The Distt. Agriculture officer, Araria. Bihar
5. The Superintendent of Police, Araria. Bihar
6. The Station House Officer, Araria Sadar P.S., Araria. Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Ravish, Advocate
Mr.Sanjay Kumar Sharma, Advocate
For the Respondent/s : Mr.Deepak Kumar, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 28-11-2022 Heard learned counsel for the petitioner and Mr.
Deepak Kumar, learned AC to GP-4 for the State.

Petitioner in the present case is seeking the following
reliefs:-

*“a. To ‘de seal’ the go-down of this petitioner
situated at Zero Mile, District-Araria which was
arbitrarily sealed at the time of inspection on
06.01.2022 by the District Agriculture Officer,
Araria and later on made subject matter of Araria
Police Station Case No.30 of 2022 dated*



11.01.2022 instituted under Section 7(1)(a)(i) of the Essential Commodities Act and under Order 35(1)(a) of the Fertilizer Control Order.

b. To direct for handing over the keys of the godown to this petitioner which is with the Araria Police Station.

c. To direct for payment of compensation for arbitrarily sealing the godown of this petitioner.

d. To direct for payment of cost of this litigation.

e. Any other relief or reliefs which the petitioner may be found entitled to in the facts and circumstances of the case.”

Learned counsel for the petitioner submits that the firm of the petitioner is engaged in wholesale fertilizer business as a licensee of the State through Agriculture Department, Government of Bihar. The petitioner is having his place of business in the District of Araria.

It is stated that a surprise inspection was carried out by the officials of the District Agriculture Office on 6th of January, 2022. The stocks were disclosed to the officers, however it was alleged that no evidence was shown to the inspecting officers to show that the owner of the firm is outside Araria and no stock register or sale register is maintained by the firm. With these allegations, the godown of the petitioner situated at Zero Mile, Araria was sealed on 6th January, 2022 itself and later on the keys were handed over to S.H.O., Araria



Town Police Station.

Learned counsel further submits that later on vide memo no.172 dated 13th January, 2022 the District Agriculture Officer, Araria cancelled the license of the petitioner with immediate effect on the ground that the stock was not verified as also the premises-godown of the petitioner were sealed. He presumed that the petitioner is indulged in black-marketing and hoarding the fertilizers which is in violation of the Fertilizer Control Order, 1985 as also the Essential Commodities Act and in view of the fact that a criminal case was also instituted under Araria Police Station Case No.30 of 2022 on 11th January, 2022.

Learned counsel further submits that even though the license of the petitioner was cancelled but later on the District Agriculture Officer has restored the license vide Annexure-P/6. Learned counsel submits that Annexure-P/6 was filed in the light of the Hon'ble Division Bench order of this Court passed in CWJC No.2388 of 2022.

It is submitted that on earlier occasion when the matter was taken up for consideration, it was submitted before this Court that there is no provision under the Fertilizer Control Order for sealing of the premises and this submission was based on a judgment of the learned coordinate Bench of this Court as



contained in Annexure-P/8 to the writ application.

Learned counsel for the State has taken instruction. He does not deny that the license of the petitioner has been restored for the reasons recorded in Annexure-P/8. Learned counsel for the State is unable to demonstrate any provision under the Fertilizer Control Order which empowers the inspecting authority or the District Agriculture Officer to seal the godown. Learned counsel has submitted that in fact he has sought instruction on this point but even the deponent who has filed the counter affidavit has admitted that there is no such provision in the Fertilizer Control Order but they are doing it as a matter of practice.

Having regard to the facts and circumstances of the case, considering that the license of the petitioner has already been restored vide Annexure-P/6 and the State is unable to demonstrate any provision empowering the inspecting officer/ District Agriculture Officer to seal the godown, further that once the petitioner has been allowed to do business and has been given the license, there is no plausible reason to keep the godown under sealed condition, this Court directs de-sealing of the godown forthwith and handing over the keys to the petitioner.



Learned counsel for the petitioner has not prayed for compensation, therefore the relief prayed to that extent in the writ application is not being considered.

This writ application is disposed of.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

