

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20070 of 2021

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Sudhanshu Traders through the Proprietor Amit Kumar @ Amit Kumar Gupta
Son of Dharmaj Shah R/o Village- Odar, P.S.- Sonhan (Bhabhua), District-
Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar at Patna.
2. The Collector-cum-District Magistrate, Kaimur at Bhabhua.
3. The District Manager, State Food Corporation, Kaimur at Bhabhua.
4. The Assistant Godown-In-Charge-Manager, State Food Corporation, Mohania, District Kaimur at Bhabhua.
5. The Sub-Divisional Magistrate, Mohania, District- Kaimur at Bhabhua.
6. Sub-Divisional Officer, Bhabhua, District- Kaimur at Bhabhua.
7. Block Supply Officer, Bhabhua, District- Kaimur at Bhabhua.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sumeet Kumar Singh, Adv.
For the State	:	Mr. Alok Ranjan, AC to AAG5
For the BSFC	:	Mr. Shailendra Kumar Singh, Adv.

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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 : 30-06-2022

Heard Mr. Sumeet Kumar Singh, learned advocate for
the petitioner, Mr. Shailendra Kumar Singh for the Bihar State
Food Corporation and Mr. Alok Ranjan for the State.

The petitioner has challenged the order of confiscation
of the rice in question as also the appellate order sustaining such
confiscation.



It is the case of the petitioner that the rice in question was unloaded in the premises of the marketing committee where Government CMR was also stored. No good reason was assigned by both the authorities in discarding the aforesaid explanation.

The petitioner consistently had been telling the authorities that because of bad weather, the rice had to be unloaded. However, the main argument advanced on behalf of the petitioner is that assuming every thing to be correct, there had not been any violation of any control order as rice which had been seized is not a controlled commodity and that there is nothing on record to indicate that it was subsidized food-grains which was attempted to be sold in black market. The authorities have not disputed the contention of the petitioner that it was purchased food-grains and, therefore, it is difficult for this Court to sustain the order of confiscation.

Initially, on the petitioner's showing that the seized rice was auction-sold because of the fear of decay, this Court was curious to know as to what was the rate at which the seized rice was sold. According to the records furnished by the learned counsel for the petitioner, 756 quintal of rice was apparently sold at Rs. 18,000/-. When a query was made as to the price charged for the seized food grains, a supplementary counter affidavit was filed,



stating that perhaps such document was brought on record by the petitioner by mistake. The price of the rice was in the auction-sale in another case and not in the case of the petitioner.

The learned counsel for the State as well as the B.S.F.C. have unanimously stated that the rice in question is still on the *Jimmenama* of the concerned authority and if the confiscation order is not found to be sustainable, the rice so seized shall be returned to the petitioner.

It is a trite law that the seizure could be justified only if there is any violation of any order under Section 3 of the Essential Commodities Act. Since rice is not a controlled commodity and both the authorities did not find anything in the records to indicate that it was not a purchased property but, a subsidized food-grain, which was allegedly attempted to be sold in black market, the orders passed by the confiscation authority and the appellate authority which sustained the same do not appear to be sustainable.

We, therefore, set aside both the orders i.e. the appellate order dated 03.09.2021 passed by the Additional District Judge-II, Kaimur (Bhabhua) as well as the order dated 09.10.2018 passed by the District Magistrate-cum-Collector, Kaimur (Bhabhua) in Supply (Rice Confiscation Case) No. 02 of 2018.



As mandated under the Essential Commodities Act, the aforesaid quantity of rice be returned to the petitioner within a period of sixty days failing which the petitioner would be entitled to proceed against the concerned authority.

The writ petition stands disposed of accordingly.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.07.2022
Transmission Date	

