

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1208 of 2019

In

Civil Writ Jurisdiction Case No.6034 of 2019

-
-
1. The State of Bihar.
 2. The District Magistrate, Katihar.
 3. The Sub-Divisional Officer, Katihar.
 4. The District Supply Officer, Katihar.
 5. The Marketing Officer, Katihar.
 6. The Block Supply Officer, Kursaila, Katihar.

... .. Appellant/s

Versus

1. Naresh Sah, Son of Moti Sah, Resident of Balthi Maheshpur, P.S.- Kursaila, District- Katihar.
2. The Senior Superintendent of Police, Katihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Alok Ranjan (AC to AAG-5)

For the Respondent/s : Mr. Shashi Bhushan Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 06-07-2022

Heard Mr. Alok Ranjan, the learned counsel
for the appellant/State and Mr. Shashi Bhushan Kumar,
the learned Advocate for the respondent.



2. The appellant/State has challenged the order dated 17.04.2019 passed by the learned Single Judge in C.W.J.C. No. 6034 of 2019, directing the District Magistrate, Katihar to issue an appropriate release order of rice in question within one week of the writ-petitioner furnishing sureties to the satisfaction of the District Magistrate, Katihar.

3. Pursuant to the aforesaid order passed by the learned Single Judge, the rice in question has been returned to the respondent/writ-petitioner.

4. Mr. Alok Ranjan grieves that the learned Single Judge passed the order without ascertaining whether any confiscation proceeding had been initiated. It has further been submitted that on the date when the order was passed, the confiscation proceeding had already been initiated.

5. The learned counsel for the appellant/State has further submitted that even if there was no control order with respect to rice, it had to be seen as to the circumstances under which the rice was seized, the



storage and transportation of which was found to be in breach of the Essential Commodities Act, 1955. He further submits that no such order of release could have been passed during the pendency of the confiscation proceeding.

6. Be that as it may, we find from the record that when the order was passed by the learned Single Judge, there was no counter affidavit on behalf of the State to bring the aforesaid fact to the fore.

7. Mr. Shashi Bhushan Kumar, the learned Advocate for the respondent submits that no wrong statement was made before the learned Single Judge with respect to the pendency of the confiscation case before the Court below. In fact, from the last part of the order passed by the learned Single Judge, it is apparent that direction was not issued to the Chief Judicial Magistrate for release of the rice, but to the District Magistrate, who is the confiscating authority.

8. In any view of the matter, since the rice in question has already been released to the concerned



respondent/writ-petitioner; the hands of the clock in this situation cannot be turned back.

9. The act of Court injures nobody.

10. We have also found that the State did not file any review petition before the learned Single Judge before the order could be complied with. That not having been done, the State has lost the right to challenge the order passed in the writ petition by the learned Single Judge.

11. The appeal is thus dismissed.

12. I.A., if any, also stands dismissed.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13/07/2022
Transmission Date	N/A

